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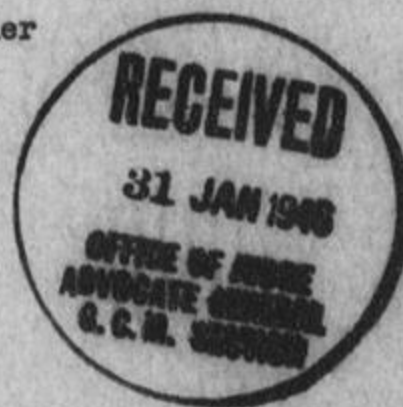
KANZO KAWACHI (17 SEP 1945)

(144575)

0381

Case of
Kanzo Kawachi
17 September 1945

RECORD OF PROCEEDINGS
of a
MILITARY COMMISSION
convened at
Agana, Guam
by order of
The Island Commander



Copy furnished.

144575

0382

Kanzo Kawachi
Trial by Military Commission
in the
Municipality of Agana, Guam

INDEX

	Page
Organization of commission-----	1
Introduction of counsel-----	1
Members, judge advocate, reporter and interpreter sworn-----	1
Pleas in bar-----	2,3
Plea to the jurisdiction-----	3
Arraignment-----	4,5
Pleas to the issue-----	4,5
Adjournments-----	54,23,48
Prosecution rests-----	23
Defense rests-----	43
Rebuttal ends-----	48
Surrebuttal ends-----	50
Findings-----	52
Sentence-----	53

TESTIMONY

Name of witness	Direct and redirect	Cross and recross	Commission
Prosecution			
Isabel T. Cruz, civilian	5,6,7	7,8,9	---
Joaquin A. Limtiaco, civilian	9,10	10,11,12	12
Pedro D. Camacho, civilian	12,13,14,16	14,15,16	12
Baltazar J. Bordallo, civilian	16,17,18,19, 21,22	19,20,21, 22,23	23
Defense			
Jose P. Villagomez, civilian	24,25,28	26,27	28
Pedro S. Leon Guerrero, civilian	28,29,30,31, 32	30,31	---
Ogawa Hirose, Japanese civilian	32,33	---	33
Kanzo Kawachi, accused	33,34,35,36 43	37,38,39, 40,41,42, 43	---

1400-65-5
(610)-wka

Serial No. 14526

In reply address:
The Island Commander,
Navy #926, C/O F.P.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

20 August 1945.

From: The Island Commander.
To: Colonel Walter T. H. GALLIFORD, U. S. Marine Corps.
Subject: Precept convening Military Commission of Guam.
Reference: (a) Proclamation No. 4, Military Government of Guam.

1. Pursuant to the authority vested in me by Fleet Admiral Chester W. Nimitz, United States Navy, Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, Military Governor of Guam, a military Commission is hereby ordered to convene at Agana, Guam, on the 20th day of August 1945, or as soon thereafter as practicable, for the trial of such persons as may legally be brought before it.

2. The commission will be constituted as follows:

Colonel Walter T. H. GALLIFORD, U. S. Marine Corps, senior member,
Major Harry S. POPPER, Junior, U. S. Marine Corps Reserve,
Major Robert H. GRAY, U. S. Marine Corps,
Captain Francis J. CAMPBELL, Junior, U. S. Marine Corps Reserve,
Captain Quentin L. JOHNSON, U. S. Marine Corps Reserve,
Captain John W. PERSSE, Junior, U. S. Marine Corps Reserve,
Lieutenant George W. DEAN, U. S. Naval Reserve, members,
any five of whom are empowered to act, and of
Lieutenant Colonel Teller AMMONS, Army of the United States, judge
advocate.

3. This commission is hereby authorized and directed to take up such cases, if any, as may be now pending before the military commission of which Colonel Walter T. H. GALLIFORD, U. S. Marine Corps, is senior member, convened by my precept of July 21, 1945, except such cases the trial of which may have been commenced.

4. The commission shall be competent to try all offenses within the jurisdiction of the Exceptional Military Courts, including offenses in violation of the Penal Code of Guam, and to impose any lawful punishment.

5. Power of adjournment is inherent in the commission, and adjourned sessions may be held at such times and such places as the commission may determine.

6. You will inform the members and judge advocate that they will continue on Military Commission duty under their previous orders.

/s/HENRY L. LARSEN,
HENRY L. LARSEN,
Major General, U. S. Marine Corps,
The Island Commander.

A true copy. Attest:

Teller Ammons
TELLER AMMONS,
Lieutenant Colonel, Army of the U.S.,
Judge Advocate.

"A"

0384

1400-65-5
(610)-wka

Serial No. 15723

In reply address:
The Island Commander,
Navy #926, C/O F.P.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

8 September 1945.

From: The Island Commander.
To: Colonel Walter T. H. Galliford, U. S. Marine Corps, Senior
Member, Military Commission of Guam.
Subject: Change in membership of Commission.

1. Lieutenant Commander Joseph F. Walters, U. S. Naval Reserve,
is hereby appointed a member of the Military Commission of which you are
senior member, convened by my precept of 20 August 1945, vice Lieutenant
George W. Dean, U. S. Naval Reserve, hereby relieved.

/s/ HENRY L. LARSEN,
HENRY L. LARSEN,
Major General, U. S. Marine Corps,
The Island Commander.

Copies to: Lieutenant Commander Joseph F. Walters USNR, Military
Government,
Lieutenant George W. Dean, USNR, Military Government,
Lieutenant Colonel Teller Ammons, AUS, Judge Advocate,
Military Commission, Military Government,
G-1 Section, Island Command.

A true copy. Attest:

Teller Ammons
TELLER AMMONS,
Lieutenant Colonel, Army of the U.S.,
Judge Advocate.

"B"

0385

1400-30-65
(610)-gwh

Serial No. 9292

In reply address:
The Island Commander,
Navy #926, C/O F.P.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

April 26, 1945.

From: The Island Commander.
To : Lieutenant Colonel Teller Ammons, Army of the United
States, Judge Advocate, Military Commission of Guam.
Subject: Charge and specifications in the case of Kanzo
Kawachi.

1. The above-named man will be tried before the Military Commission, convened by my precept of April 13, 1945, of which you are judge advocate, upon the following charge and specifications. You will notify the senior member of the Commission accordingly, inform the accused of the date set for his trial, and summon all witnesses, both for the prosecution and the defense. You will carefully comply with the procedure set forth in Section 2, Article IV, of Proclamation No. 4, dated 29 August 1944.

CHARGE

ASSAULT AND BATTERY

Specification 1

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about August 17, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 2

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the morning of August 18, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 3

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the afternoon of August 18, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Subject: Charge and specifications in the case of Kanzo
Kawachi.

Specification 4

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the morning of August 19, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 5

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the afternoon of August 19, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 6

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the morning of August 20, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 7

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the afternoon of August 20, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 8

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the morning of August 21, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 9

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the afternoon of August 21, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltazar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Subject: Charge and specifications in the case of
Kanzo Kawachi.

Specification 10

NP
In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about the morning of August 22, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip one Baltasar J. Bordallo, an inhabitant of Guam; the United States then being in a state of war.

Specification 11

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about June 3, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a ruler, one Isabel Taitano Cruz, an inhabitant of Guam; the United States then being in a state of war. 7.a.

Specification 12

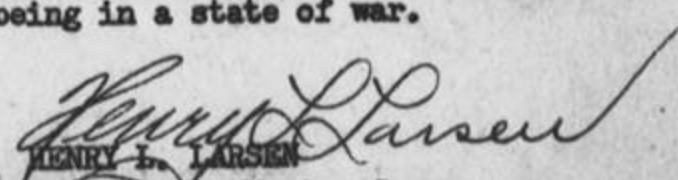
In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, on or about June 4, 1943, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a whip about five feet long and one-half inch in diameter, one Isabel Taitano Cruz, an inhabitant of Guam; the United States then being in a state of war. 7.a.

Specification 13

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, in about the month of April 1944, in or near Agana, Guam, wilfully, maliciously, and without justifiable cause, assault, strike and beat with a bull whip and with the butt of a pistol, one Joaquin Limtiaco, an inhabitant of Guam; the United States then being in a state of war.

Specification 14

In that Kanzo Kawachi, detained in the Island Command Stockade, Guam, while serving as a member of the Japanese occupational police force and a member of the Japanese military government organization in Guam, did, in about the month of April 1944, wilfully, maliciously, and without justifiable cause, assault, strike and beat with the butt of a pistol, one Pedro Camacho, an inhabitant of Guam; the United States then being in a state of war.


HENRY L. LARSEN
Major General, U. S. Marine Corps,
The Island Commander.

1400-65-10
(610)-wka

Serial No. 16198

In reply address:
The Island Commander,
Navy #926, C/O F.P.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

17 September 1945.

From: The Island Commander.
To : Lieutenant Colonel Teller Ammons, Army of the United States,
Judge Advocate, Military Commission of Guam.

Subject: Authorizing corrections in specifications.

1. You are hereby authorized and directed to change the charge and specifications preferred by me against Kanzo Kawachi in the following particulars: In the fourth line of the eleventh specification of the charge change the figures "1943" to "1944"; in the fourth line of the twelfth specification of the charge make the same correction.

2. You will cause the copy for the accused to be corrected accordingly.

Henry L. Larsen
HENRY L. LARSEN,
Major General, U. S. Marine Corps,
The Island Commander.

"D"

0389

First Day

HEADQUARTERS,
ISLAND COMMAND, GUAM.

Monday, 17 September 1945.

The commission met at 9:00 a.m.

Present:

Colonel Walter T.H. Galliford, U.S. Marine Corps,
Major Harry S. Pepper, junior, U.S. Marine Corps Reserve,
Major Robert H. Gray, U.S. Marine Corps,
Lieutenant Commander Joseph F. Walters, U.S. Naval Reserve,
Captain Francis J. Campbell, junior, U.S. Marine Corps Reserve,
Captain Quentin L. Johnson, U.S. Marine Corps Reserve,
Captain John W. Persse, junior, U.S. Marine Corps Reserve,
members, and
Lieutenant Colonel Teller Ammons, Army of the United States,
judge advocate.

Corporal Thomas R. Brown, U.S. Marine Corps Reserve, entered
with the accused and reported as provost marshal.

The judge advocate introduced Joaquin C. Perez, civilian, as
reporter, and Isabel Perez Zafra, civilian, as interpreter.

The accused requested that Lieutenant Henry P. Bakewell,
U.S. Naval Reserve, act as his counsel, and that Jorge E.U.
Cristobal, Chief Steward, U.S. Navy, act as interpreter for the
accused and his counsel.

The judge advocate submitted the precept and modifications
thereof, copies prefixed marked "A" and "B", to the accused for
his information and inspection.

The judge advocate did not object to any member.

The accused did not object to any member.

The judge advocate, each member, the reporter and the inter-
preter were duly sworn.

The accused stated that he had received a copy of the charge
and specifications preferred against him on 20 July 1945.

The judge advocate read a letter from the convening authority
prefixed marked "D", authorizing and directing him to make a
change in the specifications, and stated that the same had been
made both in the original and in the copy in the possession of
the accused.

The judge advocate asked the accused if he had any objection
to make to the charge and specifications.

The accused replied in the affirmative, stating that he objected to the charge and specifications on the ground that the specifications do not show on their face that the accused was at the time of the commission of the offense an inhabitant of a district or territory under the jurisdiction of the Military Government of the United States.

The commission was cleared.

The commission was opened. All parties to the trial entered, and the commission announced that the objection of the accused to the charge and specifications was overruled, and that it found the charge and specifications in due form and technically correct.

The accused stated that he was ready for trial.

No witnesses not otherwise connected with the trial were present.

The accused made a plea in bar of trial to the charge and specifications on the ground that the accused is a prisoner of war and is entitled to the protection of the Geneva Prisoner of War Convention; and that there is no information before this commission that any protecting power has been notified of the time and place of trial and of the charge against the accused; nor given any right to have a representative present at the trial.

In support of his plea, the accused desired to call a witness.

A witness in behalf of the accused entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank and present station.
A. Carl F. Gannon, first lieutenant, U.S. Army, Camp Commander, Island Command Stockade.

2. Q. If you recognize the accused, state as whom?
A. I do, Kowachi, Kanzo.

Examined by the accused:

3. Q. Do you have with you the official record of the accused?
A. Yes, I do.

4. Q. What according to your record is the status of the accused?
A. Prisoner of war.

5. Q. And what date did the accused become a prisoner of war?
A. 16 September 1944.

6. Q. Has he been such since that time?
A. Yes.

7. Q. Does it show the nationality of the accused?
A. Yes.
8. Q. What is his nationality?
A. Japanese.
9. Q. Does it indicate his status prior to his capture?
A. It does.
10. Q. What?
A. Military civilian with the Japanese Navy.

Neither the accused, the judge advocate, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The judge advocate did not desire to introduce any evidence in reply.

The commission announced that the plea of the accused was overruled.

The judge advocate asked the accused if he had any further plea to offer.

The accused replied in the affirmative, and made a plea to the jurisdiction of the commission on the ground that Proclamation No. 4 of the Military Government of Guam of which the commission may take judicial notice expressly states that the military commission does not have jurisdiction over prisoners of war.

The accused requested that the testimony given in support of the previous plea be considered as testimony in support of this plea.

The commission announced that the request was granted.

The judge advocate did not desire to introduce any evidence in reply.

The commission announced that the plea of the accused was overruled.

The judge advocate asked the accused if he had any further plea to offer.

The accused replied in the affirmative, and made a plea in bar of trial to the charge and specifications on the ground that the charge was not preferred against him within one year from the date of commission of the alleged offense as required by the Penal Code of Guam.

The commission announced that the plea of the accused was overruled.

The judge advocate asked the accused if he had any further plea to offer.

The accused replied in the negative.

The judge advocate read the letter containing the charge and specifications, original prefixed marked "C(1)", "C(2)", and "C(3)", and arraigned the accused as follows:

Q. Kanzo Kowachi, you have heard the charge and specifications preferred against you; how say you to the first specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the second specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the third specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the fourth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the fifth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the sixth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the seventh specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the eighth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the ninth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the tenth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the eleventh specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the twelfth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the thirteenth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the fourteenth specification of the charge, guilty or not guilty?

A. Not guilty.

Q. To the charge, guilty or not guilty?

A. Not guilty.

The prosecution began.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.

A. Isabel Taitano Cruz, resident of Agana Springs, and working for the Naval Air Base.

2. Q. If you recognize the accused, state as whom?

A. I do, as Kowachi.

3. Q. Did you live on Guam during the Japanese occupation?

A. Yes, sir.

4. Q. Did you see the accused on Guam during the Japanese occupation?

A. Yes, sir.

5. Q. Did anything unusual happen between you and the accused during the Japanese occupation?

A. Yes, sir.

6. Q. When was that?

A. The first was on June 3rd when I was arrested by Pedro Guerrero.

7. Q. What year?

A. 1944.

8. Q. What happened between you and the accused?

A. I was taken to the court office. I was asked if I was taking anything from the Americans. I said, "No". They asked me if I know where Tweed is and I said, "No". So he told me I was telling a lie. While he was asking me questions he was beating me up with a ruler.

9. Q. Describe the ruler?

A. 18 inches long and as thick as a pencil.

10. Q. Continue.

A. I was beaten up for 20 minutes, then I was sent to the cell.

11. Q. About what time of the day was that?

A. About 6:00 o'clock.

12. Q. Morning or afternoon?

A. Afternoon.

13. Q. What happened between you and the accused that day?
A. The first day, the third day of June about 6:00 o'clock they made me sleep in the cell and the next day, the fourth of June in the morning before breakfast they took me back to the office and he beat me with a bull whip.
14. Q. Who did that?
A. Kowachi.
15. Q. The accused?
A. Yes.
16. Q. State how he beat you with the bull whip?
A. Well he beat me on my back, my legs, and shoulder and I was all black and blue that time when he first beat me with the bull whip. Then he asked me the same question and asked me who told me that I know where was Tweed and I told him I do not know anything about Tweed and he said I was still telling a lie and started beating me with the bull whip. He beat me 20 minutes then I was sent back to the cell. About noontime before lunch they took me back to the office and did the thing again.
17. Q. Was this the accused?
A. Yes.
18. Q. What did he beat you with?
A. The same whip.
19. Q. Bull whip?
A. Yes.
20. Q. Did anything else happen that day?
A. Yes. He asked me if I was pregnant and I said, "No", then he said, "Come over here" and so I went over to him and he was feeling all over my breast, pressed my stomach and feeling my - I can't say that - and so he was laughing with the others. There was Pedro Leon Guerrero and a couple more Japs. All acted as if they were having lots of fun.
21. Q. Where did all these happen?
A. Right in that office of the court.
22. Q. That was in Agana, Guam?
A. Yes, sir.
23. Q. And it was on June 3rd when it happened?
A. June 4th.
24. Q. And also on June 3rd?
A. Yes, sir.
25. Q. In Agana, Guam?
A. Yes, sir.
26. Q. Anything else happen on June 4th?
A. I was sent back to the cell and about supper time they sent me back and he beat me up again. Then he started asking me if I know Tweed, and I said, "Yes" and then he said that if he showed me a picture then would I recognize him and I said, "Yes" and then he asked me why did I know Tweed and I said he had been

around my place and that I cannot help knowing him, because I was around his house. Then he took the picture of Tweed and his family and showed me and I said, "Mr. and Mrs. Tweed and baby". Then he said if I will just tell him the whereabouts of Tweed, I will not be beaten up again and I will get 200 yen reward and that I do not have to work, the government will support me and my family. That is all. He asked me if I promise to do that and I said, "Yes". I have to say that. Then he said, "I will let you go home", and restricted me to this area. That I must stay in this area, not supposed to go out of town. Then I stayed at home, I did not work for one week, I was bleeding.

27. Q. What were you bleeding for?
A. From the bull whip he beat me.

28. Q. As a result of the beating of June 4?
A. Yes. I was working for the postmaster that time, and he told me I do not have to go to work.

29. Q. Did you go to work?
A. Yes, I did when my sores healed up.

30. Q. How long did it take your sores to heal up?
A. One week.

31. Q. Who was present at the time of this alleged assault by the accused on June 3rd?
A. Pedro Leon Guerrero.

32. Q. Anyone else?
A. No one else.

33. Q. Who was present on June 4th, the second day when the alleged assault took place?
A. Pedro Leon Guerrero, and I think there are a couple more Japs, I do not know who.

34. Q. Did Pedro Leon Guerrero take part in the assault?
A. Only as interpreter.

Cross-examined by the accused:

35. Q. On June 4th, you say there were a couple more Japs there?
A. Yes, sir.

36. Q. And you are sure the accused was there?
A. Yes, sir.

37. Q. Do you know Hirose Ogawa?
A. No.

38. Q. You do not know whether or not he was present?
A. I know him if I see him, but I do not know his name.

39. Q. You say this happened in June 1944?
A. Yes, sir.

40. Q. How did you fix the date?
A. I was working for the postmaster and I kept track of the date.
41. Q. Was this before or after the American planes had come back over the Island?
A. Before.
42. Q. You are sure this didn't happen in January and not June?
A. No, I am sure it was June.
43. Q. This questioning involved some American hat?
A. A lady friend of mine gave me a hat. The sun was hot and she asked me if I would like to wear Tweed's hat and I said, "I don't care if it's anybody's hat," it was so hot, and I will wear it." So I took the hat home and threw it away. It was worn out. I did not know if the girl was hiding it or not.
44. Q. So you were questioned about a hat belonging to Tweed?
A. Yes.
45. Q. That time, did you know of your own knowledge that the Japanese were looking for Tweed?
A. Yes, I know they were looking for Tweed because they put up an order for anybody finding Tweed; a 200 yen reward.
46. Q. You were taken the first time in the evening?
A. Yes, 3 June.
47. Q. When you say you were questioned, I assume you were talking through interpreter?
A. Yes.
48. Q. Are you certain the second day it was not some other Japanese and not the accused?
A. It was the accused, and there were Guerrero and a couple of other Japanese.
49. Q. Sure it was not Ugawa?
A. It might be. I don't know his name, but if I see their face I will know. I will never forget their faces.
50. Q. Could you fix in your mind how long this was before the Americans came back?
A. I do not know the exact date the Americans landed here, but I know the day when I met the Americans because I was told the Americans were around here all the time; but I didn't know anything about it.
51. Q. How long was this before the American planes came over?
A. I cannot remember the date, but after that about two weeks.
52. Q. On June 4, that is the second day about which you have testified, you say there were several other Japanese present?
A. Yes, sir.

53. Q. Do you know whether they were officers or not?
A. I do not know.
54. Q. Were they in uniform or civilian?
A. Civilian.
55. Q. Did any of them take part in the questioning?
A. No.
56. Q. Did they take part in the episode at all?
A. No. They laughed, that is all.
57. Q. You say this happened three times on June 4?
A. Yes, sir.
58. Q. As you look at the accused here, you are sure he was there?
A. Yes, sir.
59. Q. On that second day?
A. Yes, sir, the first and second day.
60. Q. And you say the accused was the man who struck you both days?
A. Yes, sir.
61. Q. Sure this did not happen in 1943?
A. I am sure it was not 1943, it was 1944.
- Examined by the commission:
62. Q. How old were you at this time?
A. I was 37 years old.
63. Q. Were you married that time?
A. Yes, sir.
64. Q. How was the accused dressed that time, in uniform or civilian clothes?
A. Civilian.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that she had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.
A. Joaquin A. Limtiaco, resident of Barrigada, and a farmer by occupation.
2. Q. If you recognize the accused, state as whom?
A. Yes, Kowachi.

3. Q. Were you in Guam during the Japanese occupation?
A. Yes.
4. Q. Did you see the accused on Guam during the Japanese occupation?
A. Yes.
5. Q. Did anything unusual happen between you and the accused during the Japanese occupation?
A. Yes.
6. Q. State what that was?
A. I was summoned to the jail. The accused questioned me about Americans. I told him I did not know anything about the Americans so he told me to open my mouth and he took his revolver and pointed it to my mouth and then he started pulling the trigger. After that he commenced kicking me, then he took his revolver again and placed it to my ear. While he was holding the revolver against my ear, he started pushing me backwards until I got close to the walls, then he took me as far as the table and he struck me with the same revolver on the back. After that he took the bull whip and commenced whipping me. As a result of the whipping I received from him, I could not stand it any longer and fell down on the floor. Then he told me to get up and sit on a chair. Just as I was going to sit down, he pulled the chair and made me fall down. All these took place in the former courthouse, upstairs, then he told me to go downstairs and remain in the office. I remained in that office until 1:00 o'clock when a number of officers of the Kempetai came and they asked me why I was not working at the air base. That is all I can say about the accused.
7. Q. Where did this happen?
A. Agana, Guam.
8. Q. What date was it?
A. It happened sometime in April 1944, as to the exact date, I do not remember.
9. Q. Was anyone present at the time the alleged assault was committed?
A. Gonzalo Eclavea and Jose Villagomez.
- Cross-examined by the accused:
10. Q. You say this happened on April 1944?
A. Yes.
11. Q. You say this examination was in regards to the whereabouts of some American?
A. Yes, it was the accused that asked me.
12. Q. Didn't this happen in September 1942?
A. No, this happened in 1944.
13. Q. Was this the civilian police or the Kempetai?
A. It happened at the civilian police.

14. Q. Were you arrested before this?
A. I was arrested in 1942.
15. Q. Prior to this questioning in 1944, were you placed under arrest?
A. No, I was not arrested prior to 1944. I was only summoned to the jail then after that day was allowed to go back to work.
16. Q. Who summoned you to jail?
A. It was Jose Villagomez that notified me about it.
17. Q. Have you seen the accused since that time and before today?
A. I saw the accused in the stockade one afternoon when the Americans came here already.
18. Q. Did you then identify the accused as the person who struck you?
A. Yes.
19. Q. Did they show you a number of Japanese and ask you to pick out the person who struck you?
A. At that time I was shown a number of Japanese for a man by the name of Ugawa, but not to identify the accused here.
20. Q. When did you first tell the American authorities about this beating?
A. It was about 6 months ago or more since Lieutenant Savage came to my place.
21. Q. Did they ask you if the accused had struck you?
A. When I was asked to report to the Island Command once I told him about it; then after that he came to my place again.
22. Q. Who first mentioned the name Kowachi, you or Lieutenant Savage?
A. I did because I was asked for the names of the persons who punished me.
23. Q. At the time, April 1944, did you know the accused by name?
A. Yes. I only know him as Kowachi.
24. Q. Is it not a fact that the Kempetai held you for several weeks around that time?
A. After I was through that day, the Kempetai took me and made me work.
25. Q. You knew the names of the different members of the Japanese Police Force, did you not?
A. I only know Ugawa, Shibashi, Shimada and the accused.
26. Q. Did you know them by sight?
A. Yes.

27. Q. Could you tell them apart?
A. Yes.

28. Q. Are you sure this episode did not involve one of the others?
A. I am sure it did not involve any of the others. It was the accused that did it.

29. Q. At the time you gave Lieutenant Savage the name of Kowachi, I understand you did not point him out?
A. It is true that I didn't point him out because he was not there at the time I was taken up there for the purpose of identifying Ugawa.

30. Q. Then at that time you identified Ugawa and not the accused?
A. That is right.

Examined by the commission:

31. Q. How was the accused dressed, soldier uniform or civilian clothes?
A. Civilian.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.
A. Pedro Duenas Camacho, age 31 years, occupation, supervisory stockman, resident of Barrigada.

2. Q. If you recognize the accused, state as whom?
A. I do, Kowaguchi.

3. Q. Do you know him by any other name?
A. No, sir. His position during the Japanese administration was acting Chief of Police.

The accused objected to the witness on the ground that his identification of the accused was insufficient.

The senior member announced that further examination of the witness would be in order before ruling on the objection.

Examined by the commission:

4. Q. You say you recognize this individual, the accused?
A. Yes.

5. Q. How did you recognize him?
A. His face with the glass. I know him all the time.

6. Q. Where did you know him?
A. Police Department, Agana Civil Jail.
7. Q. How long?
A. Everytime I was summoned to appear, I saw him around the police department.
8. Q. How often would that be?
A. Practically every Sunday when I came to Agana.
9. Q. Once a week?
A. Yes, sir.
10. Q. For how long?
A. During the time he was in Agana, about one year. He was down at Piti before as policeman down there; then he was transferred to Agana and acted as Chief of Police down there.
11. Q. Do you know his name?
A. I do not know his name.
12. Q. What nationality?
A. Japanese.
13. Q. What kind of clothing did he wear?
A. Khaki shirt like mine.
14. Q. Any insignia?
A. The only time when they wore Japanese civilian police uniform was on formal parade or ceremony.
15. Q. How long ago was the last time you have seen the accused under the circumstances that you just described?
A. Before the reoccupation by the American troops.
- The commission announced that the objection was not sustained.
- Reexamined by the judge advocate:
16. Q. Were you on Guam during the Japanese occupation?
A. Yes, sir.
17. Q. Did you see the accused on Guam during the Japanese occupation?
A. No, sir.
18. Q. Did you see the accused on Guam during the time the Japanese were here?
A. Yes, sir.
19. Q. Did anything unusual happen between you and the accused during the Japanese occupation?
A. Yes.
20. Q. Where did it happen?
A. Right in Agana police station.

21. Q. What date was that?

A. I do not remember the exact date, but around the middle of April 1944.

22. Q. State what happened between you and the accused?

Pedro Camacho
A. At that time I was summoned to appear at the Police Department, so I went down there on Sunday with my wife to the police station. I went in there and sat about two hours. This accused was there sitting down and he asked Pedro Guerrero, a Saipan native interpreter what we were doing there and he said I was one of the natives harboring Americans. Immediately he got mad and raised hell and then went inside and started questioning me about the Americans, starting with Taison and Johnson. I told him about it, it was true I was harboring Taison and Johnson. They were already killed and I already testified about them in the Navy Military Police and the case was over and I was told to go back to the ranch and to stay there and at the same time to be on the look-out for Tweed. He then kicked me and pushed me trying to make me tell about Taison and Johnson and told him there was no use hiding that because they had been killed and he turned around and questioned me about Tweed and I told him all I knew was that he was supposed to be dead. He then turned around and took his pistol, American made, loaded it and pointed it at me trying to scare me to tell. I told him I do not know anything. He hit my back and pushed me and kicked me, and I told him I did not know anything about Tweed; then the same thing, he kicked me, hit me with his pistol and finally he stopped and told me that he would take me to the Army Military Police to be killed because I was telling a lie. That is all. As a result of the hitting on me, I received bruises on my shoulder and back and pain around my body.

23. Q. Do you know of anyone else present?

A. My wife and Pedro Guerrero were the only ones present at the time they beat me up.

24. Q. What was Pedro doing there?

A. Interpreter for the accused.

25. Q. Between you and the accused?

A. Yes, sir.

Cross-examined by the accused:

26. Q. Who told you to go to the police station?

A. A native policeman came up to my ranch and summoned me to appear on Sunday, that was in April 1944, I forgot the date.

27. Q. You said you were summoned to appear before the Kempetai, didn't you?

A. Police Department. I do not know which one summoned me to question me, so we went in there with my wife and sat down.

28. Q. You said the Navy Military Police questioned you before?

A. Yes, sir.

29. Q. And also said you were questioned by the Army Military Police afterward?

A. Yes.

30. Q. At the time of this episode, was any other Japanese present besides the accused?

A. No, they were the only two, one Japanese and one Saipan native.

31. Q. You say you saw the accused a number of times?

A. Yes.

32. Q. Do you know of any other Japanese that look like the accused?

A. I always remember his face.

33. Q. Perfectly certain he is the one?

A. Pretty sure.

34. Q. Pretty sure?

A. I am certain he is the one.

35. Q. Pedro Guerrero was there?

A. Yes.

36. Q. You don't speak Japanese, and Guerrero was the interpreter?

A. Yes.

37. Q. You are sure this was not the questioning which occurred September 1942?

A. No, sir.

38. Q. When did you make complaint about this to the American authorities?

A. During the time the Americans occupied the Island I worked with the Military Government. Our Commander that time was Commander Perry and I had the position of being one of the important men at Manengon Camp and I went up to Talofofo for my family. That time I worked, going around helping the Government and at the same time trying to locate all these natives who are Japanese collaborators, that is my job. I got their names and arrested some of them and sent them to the stockade. After that I quit and stayed at home. That time I began to be questioned about Americans and all these cases during the Japanese time. I was called to testify; that was way back in December.

39. Q. So it was your job to make accusations against people?

A. Yes.

40. Q. Then you knew the accused's reputation pretty well?

A. Yes.

41. Q. Did you make accusation against him?

A. Not until I was called up.

42. Q. Was he there at the time you were called up?

A. No. I never knew he was captured until when I was working and saw his picture and I was asked if I knew the man

and said, "Yes, I will never forget him."

43. Q. Showed you a picture?

A. Yes.

44. Q. You didn't give his name?

A. No, the only ones whose names I gave was only those I knew to be living. I did not give names of ones I did not know to be living or that I did not see.

45. Q. You say this questioning had to do with the location of Tweed?

A. The last questioning was about Tweed, but they started with Taison and Johnson and then it was Tweed.

Reexamined by the judge advocate:

46. Q. What was the name you called the accused?

A. Kawichi.

47. Q. At all times during your testimony that you use the name you refer to the accused?

A. Yes, sir.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then at 11:15 a.m., took a recess until 1:15 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the reporter, the interpreter, the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.

A. Baltazar Jerome Bordallo, manager of a restaurant, wife's, and a resident of Agaña.

2. Q. If you recognize the accused, state as whom?

A. Yes, Kowachi. *Kunzo, Japanese policeman*

3. Q. Were you on Guam during the Japanese occupation?

A. Yes, sir.

4. Q. Did you see the accused on Guam during the Japanese occupation?

A. Yes, sir.

5. Q. Did anything unusual happen between you and the accused during the Japanese occupation?

A. Yes, sir.

6. Q. Please state what that was? Giving dates and where it was.

A. About 17 August 1943, at about one o'clock a.m., my wife woke me up from my bed and told me there was someone down stairs calling my name. So I got up immediately, went to the front door and a Saipanese Chamorro called me down to speak. Just as I was leaving the last step of my house, I was grappled on the left side by the accused and on the right arm by two Saipanese Chamorros. I was taken up to the building that was the former Bank of Guam. As I stepped inside I noticed the commanding officer of the searching party sitting behind a desk, some Japanese standing up among whom was the accused. I remember the accused hit me on the jaw and he with another Japanese started whipping me from my left heel on up to my hip and again from my right heel on up to my hip and from there on up to my neck.

7. Q. Who was that that was beating you that way?

A. The accused and a Japanese from Talofoto; a policeman.

8. Q. What was he beating you with?

A. The two Japanese used a bull whip and a woven cow hide. That is all I saw. I do not know if they used anything else.

9. Q. What did the accused use to beat you with?

A. I cannot tell now which one he used. Maybe he used one maybe he used both, I do not remember.

10. Q. Are you sure he was beating you?

A. Yes, sir.

11. Q. That was on 17 August 1943. When was the next time you saw the accused?

A. At about 9:00 o'clock on the morning of the same date. I was taken up to the room on the second floor of the old jail, and the accused and the policeman from Talofoto beat me again from my shoulder down to my back.

12. Q. What did the accused use to beat you with?

A. Either the bull whip or the cow hide, woven cow hide.

13. Q. That is the morning of the 18th of August. When was the next time you saw the accused?

A. It was a routine for these Japanese to beat me in the morning and afternoon from the 17th, 18th, 19th, 20th, 21st and I am not very positive on the 22nd.

14. Q. Will you just state on each day what happened?

A. I remember that the accused took me up each morning and each afternoon beginning from the 17th and I am positive for the 21st, morning and afternoon; and the routine was to ask me questions on the whereabouts of Tweed; and I would answer every

question that I did not know where Tweed was, and then the beating begins. Sometimes they beat me up standing, and sometimes the two Japanese would tell me to get down on my fours and hit me on my back. I remember the last beating I received and that was to tie both my limbs and hang me up to a beam, and I received as far as I can recall at least 40 lashes on my back. That was the morning of the last day I was in jail.

15. Q. When was that as far as you can remember?
A. About August 22.
16. Q. Who beat you that time?
A. I remember the two Japanese were beating me alternately.
17. Q. Who do you mean, the two Japanese?
A. The accused and the policeman from Talofoto.
18. Q. After the morning of the 18th, when was the next time you saw the accused?
A. I saw him on the afternoon of the 18th.
19. Q. Then what happened?
A. I received another beating.
20. Q. When was the next time that you saw the accused?
A. Morning of the 19th.
21. Q. What happened?
A. I received another beating.
22. Q. The next time you saw the accused?
A. Afternoon of the 19th.
23. Q. What happened then?
A. Received another beating.
24. Q. When did you see the accused the next time?
A. Morning of the 20th.
25. Q. What happened?
A. I received another beating from him.
26. Q. When was the next time you saw the accused?
A. Afternoon of the 20th.
27. Q. What month?
A. August 1943.
28. Q. What happened?
A. I received another beating.
29. Q. When was the next time you saw the accused?
A. Morning of the 21st.
30. Q. What happened that time?
A. I received another beating.

31. Q. By whom?
A. The accused and his colleague.
32. Q. When was the next time you saw him after that?
A. Afternoon of the 21st.
33. Q. What happened?
A. As usual I received another beating.
34. Q. By whom?
A. The accused and his colleague.
35. Q. When was the next time you saw the accused?
A. On the morning of the 22nd.
36. Q. What happened that time?
A. I received another beating.
37. Q. Who gave you the beating that time?
A. Kowachi and his colleague.

Cross-examined by the accused:

38. Q. I believe you stated first you were not positive about the 22nd?
A. Yes, my recollection was on the 21st, and on the 22nd I was taken out of jail.
39. Q. That all happened quite a while ago?
A. Yes.
40. Q. I think you also testified that this was routine on each day?
A. Yes, I said routine because every morning and afternoon a series of questions would be asked me and followed by beatings.
41. Q. Do you recall each individual beating?
A. From the standpoint of the punishments, I do, but not the type of punishment. I remember what was given to me except the last one as I stated.
42. Q. Is it not possible that at some of these beatings, the accused was not present?
A. No.
43. Q. Are you positive he was there everytime?
A. I am positive he was there at each beating I received.
44. Q. This was all in connection with the same questioning?
A. In connection with my case about Americans.
45. Q. But it was one questioning that went on for a period of several days?
A. Their main question was the whereabouts of Tweed; but there were other questions not connected with Tweed; but my main case was about Tweed.

46. Q. You do not remember which question you were asked on each day?

A. No.

47. Q. The first night you were taken away, August 17 about one o'clock a.m., do you mean the morning of the 18th?

A. Shortly after I got out from jail, my wife and I discussed and mentioned the case and both remembered 17 August, that was Thursday, but I never consulted the calendar to know whether it was the 17th or 18th, but I only remember it to be August 17.

48. Q. Then the second was later that morning?

A. Yes, about 9:00 o'clock that morning.

49. Q. On the 17th?

A. Yes.

50. Q. The next time would be the afternoon of that same day, the 17th?

A. Yes.

51. Q. When did you come into the old bank building the first time?

A. When I was arrested.

52. Q. Do you remember who were there besides the accused?

A. His colleague, the policeman from Talofoto, and this officer in charge of the searching party and several Japanese and several interpreters.

53. Q. Do you know the name of the officer in charge of the searching party?

A. Kimura.

54. Q. Did Kimura ask you any question?

A. Yes.

55. Q. Was Kimura a Navy Lieutenant?

A. I do not know their ranks.

56. Q. You do not understand Japanese, do you?

A. No.

57. Q. Did Kimura say anything to the accused that you noticed?

A. I do not remember.

58. Q. Did you know a man by the name of Hirata?

A. I heard of the name but I do not remember his face.

59. Q. You do not know whether he was there or not?

A. No.

60. Q. Do you know whether or not he was the Chief of Police?

A. I believe a man by that name was a Chief of Police.

61. Q. I think you said you are not sure on any given occasion which one of the two Japanese used the bull whip?

A. That is right.

62. Q. What was the name of the other Japanese?
A. I do not know.
63. Q. Did you know any Japanese named Nishikawa?
A. That sounds to me as being possible to be the name of the policeman from Talofoto.
64. Q. Is it not possible that one day the accused questioned you and the remaining days Nishikawa questioned you?
A. As I remember each time I was whipped by the accused and this policeman from Talofoto; and the interpreter Villagomez was always present.
65. Q. Was that the first time you had seen the accused?
A. I believe I had seen him several times.
66. Q. Did you at that time know his name?
A. No, I did not know his name before I was arrested.
67. Q. When did you first hear his name?
A. If I remember right after I was arrested; I might have been in the dark cell when I was beaten.
68. Q. Did anybody point to this man and say that man was Kowachi?
A. No, but I was told that one of my beaters was Kowachi and the other one was a rather hard name to remember, the policeman from Talofoto.
69. Q. You were told that Kowachi was one of those who beat you?
A. I do not remember the circumstances exactly when his name was mentioned to me for the first time, but I found out later his name is Kowachi. How the name got to me I cannot remember very well.
70. Q. After the return of the Americans, did you make complaint to the American authorities of this happening?
A. I heard that he was taken alive, so I asked permission to interview the man.
71. Q. Did you then make complaint to the authorities?
A. I was asked about it and I told them; I was examined and asked what happened.

Reexamined by the judge advocate:

72. Q. At the time you saw the accused at the stockade, was there any conversation between you and him after the Americans came in?
A. Yes.
73. Q. Please state just what that circumstances was?
A. I was granted an interview and I asked the accused what he did with that agreement between the Japanese and me when they offered my life for 20 days. My object was to recover that back as a sort of souvenir, if he had that in his possession.

74. Q. When was that agreement you speak of?
A. It was made if I remember right, on the 21st of August, one day before I left the jail.
75. Q. What year?
A. 1943.
76. Q. The 21st of August 1943, was one of the days you testified that the accused assaulted you?
A. Yes, that is right.
77. Q. Are you sure he is the man that made that agreement with you?
A. No, the policeman from Talofoto.
78. Q. But in the presence of the accused?
A. Yes, sir, he was present when I signed it.
79. Q. So the accused was the same man you saw in the American stockade that beat you in August 1943, is that right?
A. Positive.
80. Q. Then you remembered him that way, when he helped make that contract between you and the Japanese Government?
A. Yes, I made the contract and still they beat me.
81. Q. What was that contract as far as you remember?
A. The essence of the contract was that if I don't find Tweed within 20 days I was to turn myself over to the Japanese authorities and forfeit my life. The contract was written in Japanese and I do not know what it contains, but that was what was said to me. I asked him if he had the contract and said another Japanese had it.
82. Q. The so-called contract was written in Japanese and you do not know what it said?
A. I do not know.
83. Q. You really did not know what it was, except a piece of paper?
A. Yes, sir, other than what they said.
84. Q. That is all you know?
A. Yes, sir.
- Reexamined by the judge advocate:
85. Q. Who was present at the time you talked with the accused about this contract at the stockade?
A. An officer-interpreter, the accused and myself.
- Recross-examined by the accused:
86. Q. Did they explain to you whether this so-called contract was an order from Kimura?

A. I have already stated it was explained to me what the contract contains.

87. Q. But still you do not know what was the contents, whether it was a contract or an order?

A. No, I do not know the contents because it was written in Japanese.

Examined by the commission:

88. Q. Is this individual sitting here, the accused in this case, the individual that beat you on the 17th, twice on the 18th, twice on the 19th, twice on the 20th, twice on the 21st and once on the 22nd of August 1943?

A. Yes, sir.

89. Q. What did he beat you with?

A. Either with a bull whip or a woven cow hide.

90. Q. In other words, you were beaten with a whip, they did not use any other instrument?

A. Yes.

91. Q. Is that what the court is to understand as to what the accused beat you with?

A. Yes, sir, except the first morning when I was arrested when he hit me on the jaw.

92. Q. What did he hit you with?

A. His fist.

93. Q. By whom?

A. The accused.

94. Q. But all the other whippings were with some kind of a whip, is that it?

A. Yes.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The prosecution rested.

The commission, then at 2:30 p.m., adjourned until 9:00 a.m., tomorrow, Tuesday, 18 September 1945.

Second Day

HEADQUARTERS,
ISLAND COMMAND, GUAM.

Tuesday, 18 September, 1945.

The commission met at 9:00 a.m.

Present:

Colonel Walter T.H. Galliford, U.S. Marine Corps,
Major Harry S. Popper, junior, U.S. Marine Corps Reserve,
Major Robert H. Gray, U.S. Marine Corps,
Lieutenant Commander Joseph F. Walters, U.S. Naval Reserve,
Captain Francis J. Campbell, junior, U.S. Marine Corps Reserve,
Captain Quentin L. Johnson, U.S. Marine Corps Reserve,
Captain John W. Persse, junior, U.S. Marine Corps Reserve,
members, and
Lieutenant Colonel Teller Ammons, Army of the United States,
judge advocate.
Joaquin C. Perez, civilian, reporter.
Isabel Perez Zafra, civilian, interpreter.
The accused and his counsel.

The record of proceedings of the first day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

The defense began.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.
A. Jose P. Villagomez, prisoner at the Civil Jail, Agana.
2. Q. If you recognize the accused, state as whom?
A. I do, Kowachi, Kanzo.

Examined by the accused:

3. Q. Where were you during the Japanese occupation of Guam?
A. I was in the civilian jail.
4. Q. In what capacity?
A. I was staying there as interpreter.
5. Q. Do you know of any episode between the accused Kowachi and one Baltazar J. Bordallo?
A. Yes.
6. Q. When was that?
A. I forgot the month, but it was in 1943.

7. Q. Will you describe what happened?
A. Sometime in 1943, Baltazar Bordallo was taken to the civil jail by members of the Japanese navy. Bordallo was investigated about a certain American by the name of Tweed.
8. Q. Who was present?
A. Chief of Police Hirata, Kowachi, Nishikawa, Ugawa and three members of the Japanese navy.
9. Q. Do you remember the names of any of these members of the Navy?
A. A chief named Hata and Kimura who was the Taicho at that time, the other one I do not know.
10. Q. Do you know who was in charge of the investigation?
A. To the best of my recollection, it was a navy man by the name of Kimura.
11. Q. Did anybody strike Bordallo?
A. Yes.
12. Q. Did the accused strike Bordallo?
A. Yes.
13. Q. What time of day was this?
A. It was either 11:00 or 12:00 o'clock at night.
14. Q. Was there any other episode?
A. I do not remember.
15. Q. Do you remember any episode the following day?
A. Yes.
16. Q. Do you remember any more episodes?
A. I do not remember.
17. Q. Do you remember an incident involving the accused and one Isabel Taitano Cruz?
A. I do not remember.
18. Q. Do you remember any episode involving the accused and Joaquin Limtiaco?
A. During Kowachi's time in jail, I do not remember seeing any punishment or anything done by him to Joaquin Limtiaco.
19. Q. Do you know of any incident involving Limtiaco?
A. I know Joaquin Limtiaco was under investigation sometime in 1942, but by Shimada.
20. Q. Do you know of any episode involving the accused and one Pedro Camacho?
A. I do not remember that.
21. Q. Do you know of any incident involving Pedro Camacho?
A. Yes, sometime in 1942, Pedro Camacho was under investigation again, but it was Shimada that went through the investigation.

Cross-examined by the judge advocate:

22. Q. In the year 1944, did you ever see Kowachi, the accused, investigate Limtiaco?

A. Never.

23. Q. Did you ever see Kowachi with a pistol, a 45, threaten Limtiaco?

A. I saw him with a pistol at times, but I never saw him investigate Limtiaco.

24. Q. You knew Limtiaco very well, do you not?

A. Yes, I do.

25. Q. Do you know if he was under investigation in the year 1944?

A. I do not remember.

26. Q. Investigations for the whereabouts of Tweed?

A. I do not remember.

27. Q. Kowachi and you were looking for Tweed in 1944, were you not?

A. I do not remember.

28. Q. In fact, the entire Japanese Police Force were looking for Tweed in 1944, weren't they?

A. I remember that it was in 1943 that Tweed was being searched for, but as to the year 1944, I do not remember.

29. Q. Do you know Gonzalo Eclavea?

A. I do not seem to be able to associate the name with the face, but if I see him I will be able to identify him.

30. Q. Were you ever present at any time when Kowachi took a 45 pistol and put it on the ear of Limtiaco and pushed him off a chair?

A. I did not see that.

31. Q. Have you ever acted as interpreter at times when Limtiaco was being questioned about Tweed?

A. Yes, I interpreted during the time of Shimada, but not during the time of Kowachi.

32. Q. Did you ever see Limtiaco after the time you questioned him in the presence of Shimada?

A. Yes, I met him on the street at times.

33. Q. Did you ever have occasion to question him in regards to Tweed after the time Shimada questioned him?

A. No.

34. Q. Were you on Guam in the year 1944?

A. Yes.

35. Q. Did you see the accused during the year 1944?

A. Yes, he was still at the police office.

36. Q. And where was that police office in 1944 where the accused was?

A. In Agana at the former Bank of Guam.

37. Q. What was the accused's position that time?

A. He was a Japanese detective.

38. Q. Did you act as interpreter between the accused and Guam Chamorros in 1944?

A. Yes, I interpreted for the accused but not about Tweed. It was about other criminal cases.

39. Q. Was there an order out in 1944 to get Tweed?

A. I heard that they were searching for Tweed that time and we were told that if we heard anything about him to report it.

40. Q. Then you were still interested to get Tweed in 1944, were you not?

A. I was not interested, but when an order came out I went out; but not of my own volition.

41. Q. But you did go out in the year 1944 looking for Tweed?

A. I do not remember.

42. Q. How about the accused, was he looking for Tweed in the year 1944?

A. I do not remember that. I know that the accused went out at times, but I didn't know what for.

43. Q. Did you act as interpreter between the accused and Limtiaco at any time in regards to Limtiaco working at the air-field?

A. No.

44. Q. Do you remember at any time acting as interpreter for the accused and Limtiaco when the discussion was about Limtiaco building his house?

A. I recall that he was asked something about building his home, but I was not the interpreter.

45. Q. What year was that?

A. I do not remember.

46. Q. Do you remember if, at any time, Joaquin Limtiaco and Gonzalo Eclavea were brought in for investigation by Kowachi?

A. I do not remember.

47. Q. Could it have been possible that you were present at the time the accused was talking with Gonzalo Eclavea and Joaquin Limtiaco?

A. When Bordallo was questioned, I was present, but not when Limtiaco or Eclavea was there.

48. Q. Do you know what year Bordallo was questioned?

A. I am not very sure, but I think it was in 1943.

49. Q. As far as you know, could it have been 1944?

A. 1943, as far as I remember.

Reexamined by the accused:

50. Q. This question of Limtiaco building a house, were you present?

A. I was not there, but I heard it among my friends.

Examined by the commission:

51. Q. Did you have a regular duties every day in the jail office?

A. Yes.

52. Q. Were you there every day?

A. Yes.

53. Q. 1943 and 1944?

A. Yes.

Neither the accused, the judge advocate, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, nationality and residence.

A. Pedro Sablan Leon Guerrero, Saipan Chamorro, prisoner at the Island Command Stockade.

2. Q. If you recognize the accused, state as whom?

A. I do, Kanzo Kowachi.

Examined by the accused:

3. Q. Were you on Guam during the Japanese occupation?

A. Yes.

4. Q. In what capacity?

A. At first I was interpreter at the Minseisho, then was transferred to Dededo as interpreter and finally to the Civil Jail at Agana.

5. Q. In what capacity in the Civil Jail?

A. I was an interpreter and policeman.

6. Q. Do you know of any episode involving the accused and one Isabel Taitano Cruz?

A. I remember that Isabel Cruz was summoned to the jail and was investigated by the accused.

7. Q. Were you present?

A. At the beginning, I was present, but before it was finished I left.

8. Q. Who was the interpreter?
A. It was Jose Villagomez.
9. Q. What was the approximate date?
A. It was sometime in February 1944.
10. Q. How did you fix that date?
A. Because at that time my wife was just about to deliver a baby and I moved to Santa Cruz, that is why I fix that date but I am not very sure of the exact date.
11. Q. What time of day was this episode?
A. It was sometime after 4:00 o'clock in the afternoon.
12. Q. State whether or not you say anyone strike Isabel Taitano Cruz?
A. While I was present, I did not see anyone strike her. I do not know whether it happened after I left or not.
13. Q. Do you know of any episode involving the accused and one Joaquin Limtiaco?
A. No, I did not see any.
14. Q. Do you know of any episode that involved Joaquin Limtiaco?
A. Yes.
15. Q. When was that?
A. Sometime in either July or August 1942 Limtiaco was brought to the jail and sometimes members of the navy questioned him. At times I acted as interpreter. That is why I know that he was brought to the jail.
16. Q. Did you see the accused there?
A. At that time Kowachi was not on the Island yet.
17. Q. Do you know of any incident involving the accused and one Pedro Camacho?
A. Is that the man known as P.I.
18. Q. Is this person called P.I. also called Pedro Camacho?
A. Some members of the military police said that there was a certain Pedro Camacho or Pedro P.I. under investigation.
19. Q. Do you know a person called P.I.?
A. Yes, I know one from Barrigada.
20. Q. Do you know whether P.I. was investigated?
A. At the Police Department.
21. Q. Yes?
A. No.
22. Q. Do you know of any incident involving the accused and this person called P.I.?
A. No.

23. Q. Do you know of your own knowledge whether Lintiacco was investigated by anybody in April 1944?

A. I do not know.

Cross-examined by the judge advocate:

24. Q. Do you know Rufina L. Duenas from Barrigada?

A. I do not remember.

25. Q. Do you remember ever getting Isabel Taitano Cruz and Rufina L. Duenas and taking them to the Civil Jail at Agana?

A. I remember Isabel Taitano Cruz because I was sent out to get her but not Rufina.

26. Q. Did you see Rufina L. Duenas at the time Isabel Taitano Cruz was investigated at the jail?

A. Isabel was there alone, Rufina was not there.

27. Q. Did accused investigate Isabel that time?

A. Yes.

28. Q. How did he investigate her?

A. I was ordered to get Isabel Taitano from the first floor of the jail up to the second floor, and Jose Villagomez was the interpreter for the accused when he was investigating Isabel about a hat.

29. Q. Did you see the accused strike Isabel Taitano Cruz with any instrument or anything?

A. The accused was investigating Isabel in a harsh way and it made the girl tremble, so I walked out because I almost laughed at the way they acted.

30. Q. How were they acting?

A. Villagomez and I were sitting on a bench and Isabel was sitting on a chair, the accused was going through the questioning and many times he forced his question out and made Isabel tremble and shaking to a certain extent that it almost made me laugh, so I had to leave.

31. Q. Did the accused seem to be enjoying that?

The accused objected to this question on the ground that it called for a conclusion of the witness.

The judge advocate made no reply.

The commission announced that the objection was sustained.

32. Q. Did you see the accused strike Isabel with anything?

A. There was no punishment administered in my presence.

33. Q. Did you see the accused lay his hands on Isabel that time in any way?

A. Not while I was there.

34. Q. Did the accused threaten Isabel at that time?

A. He didn't threaten her at all. He did not have any weapon with him.

35. Q. Isabel was being questioned in regards to Tweed, wasn't she?

A. I do not know whether it referred to Tweed, but I heard something about a hat.

36. Q. Was Kowachi looking for Tweed in the year 1944?

A. I do not know whether he went out looking for Tweed, but I know he received some order from the navy.

37. Q. What were those orders, if you know?

A. I do not know, because that was just between the accused and the Chief of Police.

38. Q. Limtiaco was known by you to be protecting Tweed?

A. I do not know. I did not have any proof.

39. Q. Was an order out, if you know, to watch Limtiaco?

A. I do not know.

40. Q. What was Limtiaco investigated for the time that you testified?

A. I knew that he was under investigation concerning some American but as to the name, I do not know.

41. Q. Was he under investigation for some American during the year 1944?

A. I do not know.

Reexamined by the accused:

42. Q. The time you referred to that he was under investigation, what year was that?

A. 1942.

Recross-examined by the judge advocate:

43. Q. In fact he was under suspicion of harboring Tweed at the time the Americans came back.

A. According to the navy, they seemed to have some kind of proof that Limtiaco was harboring some Americans.

44. Q. And they were investigating him for that, were they not?

A. Yes.

Reexamined by the accused:

45. Q. What year was that?

A. 1942.

Recross-examined by the judge advocate:

46. Q. During the entire time of the Japanese occupation of Guam, they were investigating Limtiaco for the whereabouts of Americans, were they not?

A. Yes. When Limtiaco was brought in jail I knew it was something concerning Americans.

Reexamined by the accused:

47. Q. Do you know of any actual time he was questioned after 1942?

A. Not after 1942. I did not know of Limtiaco being taken to the police department to be questioned about that.

Neither the accused, the judge advocate, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The judge advocate introduced Jorge E.U. Cristobal, Chief Steward, U.S. Navy, as interpreter, relieving Mrs. Isabel Perez Zafra.

The interpreter was duly sworn.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank and residence.

A. Ogawa Hirose, a Japanese, rank in the police force is that of the lowest grade. I am a civilian at the stockade as a prisoner.

2. Q. If you recognize the accused, state as whom?

A. Kowachi, Kanzo.

Examined by the accused:

3. Q. When did you first come to Guam?

A. On January 21st, 1942.

4. Q. What was your occupation on Guam?

A. That time I was working with the Police Force.

5. Q. Before you came to Guam what did you do?

A. I was a policeman at Saipan.

6. Q. And before that, what did you do?

A. I was attending Police school at Palau.

7. Q. Do you know Isabel Taitano Cruz?

A. Yes, I know her.

8. Q. Do you know of any incident where she was questioned?

A. I do not know.

9. Q. Did you ever see Isabel Taitano Cruz and the accused together?

A. Yes.

10. Q. Will you describe the circumstances?

A. Since I was living in one of the villages out in the country, I came over to Agana. Upon arrival, I saw Kowachi and Isabel Taitano Cruz talking. So I went close and tried to listen as to what they were talking about. I found out that he was questioning Isabel about a certain hat.

11. Q. Did you see the accused do anything else besides questioning her?

A. The only thing I saw about Kowachi was that I think he was a bit harsh and mad during the questioning, otherwise I didn't see anything.

12. Q. Did you see anybody strike Isabel Taitano Cruz?

A. I did not see any.

13. Q. About what time of the day was this?

A. In the evening about 6:00 o'clock.

14. Q. In school at Palau, were you taught anything with regards to the methods of questioning?

A. In Palau we were taught not to punish anybody unless we found that he or she is telling a lie, and that sort of punishment we could use our hands for slapping.

Examined by the commission:

15. Q. How old are you?

A. 27 years in Japanese counting; 26 in American counting.

Neither the accused, the judge advocate, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The accused was, at his own request, duly sworn as a witness in his own behalf.

Examined by the judge advocate:

1. Q. Are you the accused in this case?

A. Yes.

Examined by the accused:

2. Q. How old are you?

A. 40 years in Japanese counting.

3. Q. When did you first come to Guam?

A. Month of October 1942.

4. Q. During the Japanese occupation of Guam, what was your occupation?

A. I was working for the civil police.

5. Q. What did you do before you came to Guam?

A. I was in Rota attached to the same position I had here when I arrived.

6. Q. Prior to that, what did you do?
A. Before that I was working in Tokyo in the same position.
7. Q. State whether or not you ever attended any school?
A. Yes, in Tokyo I attended a Police school.
8. Q. Who was your superior officer in Guam?
A. Hirata was my superior officer.
9. Q. What was his position?
A. Hirata was the Chief of Police.
10. Q. Do you remember one Baltazar J. Bordallo?
A. Yes, I remember and I know him.
11. Q. Do you remember whether or not you ever questioned him?
A. Yes.
12. Q. Do you remember how many times you questioned him?
A. Twice.
13. Q. What time of day was the first time?
A. I think it was 11:00 o'clock at night.
14. Q. Who was present?
A. There were nine of us. Hata, Kimura, three other soldiers, Hirata, the Chief of Police, myself, and Nishikawa. Villagomez was the interpreter and I do not know exactly whether there were three or two other interpreters present. I do not quite remember.
15. Q. Who was Kimura?
A. Navy Military Police.
16. Q. Who was Hirata?
A. He was the Chief of Police.
17. Q. Who was in charge at the time?
A. Kimura was in charge.
18. Q. Did Kimura say anything?
A. Yes, Kimura talked to Bordallo.
19. Q. At that time, did you strike Bordallo?
A. Yes, I hit Bordallo. That was the order of Kimura.
20. Q. What time of day was the second time you saw Bordallo?
A. The next day between nine and ten o'clock.
21. Q. After that day, did you question Bordallo again?
A. After that I never saw Bordallo, since after the two questionings that I made I practically knew what was the case.
22. Q. Do you remember any incident between yourself and Isabel Taitano Cruz?
A. Yes, I remember.
23. Q. What time of day?
A. In the evening, I think about six o'clock.

24. Q. Who was present besides yourself?

A. At that time Villagomez was present and also since Pedro Leon Guerrero was the one who brought her over, he was present for a short while and also Ogawa, who came to see me, was there.

25. Q. State whether or not Isabel Taitano Cruz was struck?

A. I did not have anything to do with the punishment of Isabel Taitano Cruz. Since I have respect for women myself and also that I wanted her to tell the truth quick so that the case be done in no time, I just talked to her.

26. Q. What was she being questioned about?

A. Isabel Taitano Cruz was called to the jail on account of the hat she was wearing in which she said that that hat was given to her by a certain woman staying and living in a certain village. So right after the questioning of Isabel, the next day Villagomez and myself took off to question this certain woman who gave the hat to Isabel.

27. Q. Do you remember the date that you questioned her?

A. I do not quite remember, but I am pretty sure that it was in the very early part of 1944.

28. Q. This questioning was in the evening?

A. Yes.

29. Q. What did you do the following day?

A. About eight o'clock in the morning we took off to that village.

30. Q. When did you next see Isabel?

A. The only time when I saw Isabel was when I questioned her that evening.

31. Q. Do you know whether anybody questioned her the following day?

A. As far as I know, nobody has questioned her.

32. Q. Do you know of any incident between yourself and Joaquin Limtiaco?

A. No, and also yesterday was the first time I saw the person.

33. Q. Do you know of any incident between yourself and Pedro Camacho?

A. That was the first time I saw him yesterday, and he comes in the same recognition to me as that of Limtiaco.

34. Q. State whether or not you had any order regarding the questioning of Guamanians?

A. Yes.

35. Q. From whom did you receive the order?

A. I received the order from the Minseibu (Civil Affairs).

36. Q. How did the method of questioning on Guam compare with the method in use in Tokyo?

The judge advocate objected to this question on the ground that it was immaterial and irrelevant.

The accused replied.

The commission was cleared.

The commission was opened. All parties to the trial entered, and the commission announced that the objection was sustained.

37. Q. Other than to talk to Bordallo, did you receive orders from anyone?

A. Yes, I received order from Kimura.

38. Q. What were the orders?

A. That time, Kimura was directly talking to Bordallo through the help of the interpreter. I was standing right behind Kimura listening to the questions he was giving to Bordallo.

39. Q. Kimura gave you any order?

A. That time three of the soldiers, Hata and myself were given orders to whip or punish Bordallo, since Kimura said that he was not telling the truth.

40. Q. Were you bound to obey the order?

A. Since I was working for all these officers, there was never an order issued that we should not obey.

41. Q. Were there any orders issued with regards to the method to be used in questioning Chamorros?

A. Yes.

42. Q. What were they?

A. The order we received was to see that the people of Guam change their attitude, that is away from the American influence and to obey the rules, orders and regulations of the Japanese, and also to see that they place themselves like Japanese.

43. Q. Was there anything in the order about the use of force?

A. Yes, it all depends on what sort of kind to use.

44. Q. What were the orders with regards to force?

A. An example of using the hand. When you use such enforcement is this: when we found out a man does not want to obey the orders of the civil affairs concerning them then it would be proper time to either threaten or force them.

45. Q. Did those orders apply to questioning people?

A. Yes.

46. Q. Who issued the order?

A. Those orders originated from the Navy Military Police and then to the civil affairs, then from them to the Chief of Police and down to the lower ranking persons.

47. Q. Was the method of questioning used by you authorized by the orders?

A. Yes, without mistake.

The commission then at 11:35 a.m., took a recess until 1:15 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the reporter, the interpreter, the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

Kanzo Kowachi, the accused, the witness under examination when the recess was taken, resumed the stand. He was warned that the oath previously taken was still binding, and continued his testimony.

Cross-examined by the judge advocate:

48. Q. How long did you question Bordallo the first time?
A. In about two hours time.
49. Q. Is that the only time that you questioned Bordallo?
A. I questioned him once for two hours.
50. Q. Is that the only time you questioned him?
A. Also the next morning, I questioned him for about one hour.
51. Q. Is that the only times you questioned him, two times?
A. I questioned him only twice, yes.
52. Q. The first time you questioned him, did you strike him with anything?
A. Yes, I received an order from the chief Kimura to strike him.
53. Q. Was Kimura standing close by at the time you struck him?
A. Yes, right immediately in front of me.
54. Q. Did Kimura tell you what to strike Bordallo with?
A. I received order from Kimura to hit him with a leather attached to a piece of wood about 8 inches long.
55. Q. Did Kimura tell you what to hit Bordallo with?
A. I was ordered by Kimura to use that.
56. Q. And did Kimura tell you how many times to hit him with that?
A. Yes.
57. Q. How many times did you hit Bordallo then?
A. Since there were other people who hit Bordallo, I only hit him twice.
58. Q. Was Jose Villagomez present that time?
A. Yes, as interpreter.
59. Q. The second time that you question Bordallo, did you hit him?
A. Yes, I hit him.
60. Q. What did you hit him with that time?
A. With my fist and the same whip that I used before.
61. Q. Did Kimura order you to hit Bordallo that time?
A. That time Kimura came along from the Kebetai and he was the one who gave me the order to strike.

62. Q. How many times did you strike Bordallo that time?
A. That time I struck him once only.
63. Q. Was Jose Villagomez there present that time?
A. Yes, he was present as interpreter again.
64. Q. Did you ever see Bordallo at any time after the second time you saw him?
A. After that I never saw him again.
65. Q. How long was Bordallo in jail that time, do you know?
A. At about five days that he remained.
66. Q. What were you questioning Bordallo about?
A. A certain report came to the Police Department saying that Bordallo knows where this certain American was hiding. So the navy police went over to Bordallo's home and took him out of his place and brought him over to our police station. The question I asked him was where this American hiding, then I asked him as to what part of the Island was he and that was all the questions I asked.
67. Q. Did your information at the police at that time disclose that there was an American on the Island?
A. Yes, and also ever since the day of my arrival in Guam I was given the information that there were still Americans.
68. Q. And did that information remain up to the time the Americans came back?
A. Since the day we landed here, we were told that there were some Americans still hiding and up until the early part of 1944 the talk and information about the loose American on the Island was forgotten.
69. Q. Did you know an interpreter by the name of Martin?
A. Yes.
70. Q. Was Kimura, the man you mentioned, also known as Taicho?
A. Yes.
71. Q. Didn't Taicho and this Martin leave before you assaulted Bordallo the first time?
A. I know Martin, as interpreter for Kimura, but I do not know whether he was present in that room. As far as I can remember Kimura was present during all the questioning and striking of Bordallo the first time.
72. Q. Who whipped Bordallo on the leg the first time?
A. Since there were so many of them present, I do not remember who did.
73. Q. Do you remember if there was a Japanese policeman stationed at Talofofo present that day?
A. Yes.
74. Q. He helped you investigate, did he not?
A. Since we took turns in asking questions to Bordallo, there were four of us, Hata, Kimura, Nishikawa, the policeman from Talofofo, and myself.

75. Q. You took turns in beating him, did you not?
A. Yes.
76. Q. What did they beat Bordallo with?
A. Piece of wood with leather attached to the end, sort used as whip.
77. Q. Who threw water in Bordallo's face when he became unconscious the first time?
A. Since there were so many military police from the navy came and also were present during the accusation, I do not remember who whipped him.
78. Q. Did you see anyone kick Bordallo the first time?
A. Since it was very late in the evening and the light was kind of poor, I do not remember and I do not know who did it.
79. Q. Where was Bordallo kept during the first night?
A. Bordallo was place alone in jail that night.
80. Q. Is that in the dark cell?
A. Yes.
81. Q. Who ordered that?
A. I received the order from Kimura.
82. Q. Where was Bordallo kept the second night?
A. In the same place.
83. Q. Where was Bordallo kept the other three nights he was in jail?
A. In the same place.
84. Q. Did you see him in jail?
A. Yes, I saw him.
85. Q. You saw him the five nights he was in jail?
A. Yes, I saw him.
86. Q. Then you did see him after the second time you beat him?
A. Yes, I saw him right in the cell where he was.
87. Q. Did you ever see him during the daytime during those five days?
A. The only time when I saw him at daytime was when they let him loose.
88. Q. What date was that?
A. The month of August 1943.
89. Q. Was it the second, third, fourth or fifth day that they let him loose?
A. After the fifth day.
90. Q. What day did you make the written agreement with Bordallo?
A. The first time I talked about the agreement with him was on the second day he was in jail, then the day when we let him loose, I asked him whether he still remembered the agreement, and

so I reminded him again.

91. Q. So you did talk to him on the fifth day?

A. Yes, I talked with him the last moment he was leaving.

92. Q. Was Kimura present that time?

A. That time Kimura was not present.

93. Q. In fact you saw Bordallo everyday of the five days he was in jail, were those not the facts?

A. The only time when I talked to Bordallo formally was when I questioned him twice. Of course, I saw him everyday while he was in his cell.

94. Q. Did you see him once or twice each day?

A. I saw him at least once a day.

95. Q. What did this agreement say?

The accused objected to this question on the ground that it was incompetent, irrelevant and immaterial.

The judge advocate replied.

The commission was cleared.

The commission was opened. All parties to the trial entered, and the commission announced that the objection was not sustained.

The question was repeated.

A. That agreement came from Kimura. The contents were that starting the first day of the release and counting up to 30 days Bordallo has got to see and try to locate where this escaped American was and if he doesn't report in within that designated time, Bordallo will be held again and put in prison. That was the contents of the agreement.

96. Q. Didn't the agreement say that Bordallo would be killed if he didn't find the American?

A. Yes.

97. Q. And that was the agreement between the Imperial Japanese Government and Bordallo?

A. As far as I know that contract was just made out by Kimura and not by the Imperial Japanese Government.

98. Q. How many times did you talk to Bordallo about this contract during the time Bordallo was imprisoned?

A. The first time was the second day that he was in prison and also the moment before he was released. In all I have talked to him about the agreement twice.

99. Q. And wasn't that agreement given by Bordallo so that he would not be beaten anymore in jail?

The accused objected to this question on the ground that it had no bearing on the case.

The judge advocate made no reply.

The commission announced that the objection was sustained.

100. Q. Wasn't one of the considerations of that agreement Bordallo signed that he would not be beaten anymore in jail?
A. That was not part of the written agreement.

101. Q. Did you know Joaquin Limtiaco at any time during the Japanese occupation?
A. I do not know him. Yesterday was the first time I ever saw him.

102. Q. Do you know Gonzalo Eclavea?
A. This is the first time I ever heard of the name. I do not know him. If I see his face, I could probably recall.

103. Q. Do you recall, with a 45 caliber American revolver, ever threatening Joaquin Limtiaco?
A. I have never done that. This is the first time I ever hear of the name.

104. Q. Did you have a 45 caliber American pistol?
A. That 45 pistol belongs to the Police Department.

105. Q. Did you ever carry it?
A. I carry the thing when I have to go through the mountains or villages.

106. Q. In your investigation, did you not investigate anyone in the year 1944 for harboring American named Tweed?
A. In the year 1944, the talk about searching of Tweed was still growing. The only person that I ask about the subject Tweed was Isabel Taitano Cruz, since she was wearing the hat.

107. Q. Do you remember the time that Pedro Camacho and wife Mabel P. Camacho came to the Civil Jail in Agana and Pedro was questioned by you?
A. No, I did not ask him.

108. Q. Do you know Mabel P. Camacho?
A. I do not know her.

109. Q. Do you know if she worked at the Telephone exchange?
A. This is the first time I ever heard of the name and I do not know.

110. Q. How many times did you talk to Isabel Taitano Cruz?
A. Once.

111. Q. What time of day was that?
A. In the evening about 6:00 o'clock.

112. Q. Where was she kept that night, if you know?
A. I think she was kept in jail that night.

113. Q. When was the next time you saw her?
A. Immediately the next day, early in the morning, Villagomez and myself took off and went to a certain village to inquire a woman about a hat she gave Isabel. In the evening we returned from this village and reported the result to the Chief of Police and so the Chief of Police gave the order that she be released, but I did not see her.
114. Q. How long did you question Isabel at that time?
A. About 15 minutes.
115. Q. Was Pedro Guerrero present that time?
A. That time Villagomez was the interpreter. Pedro was not there.
116. Q. How many were present at the time you interviewed Isabel?
A. Myself, Isabel, Villagomez, and in the very far end of the room, the room was big, Ogawa was sitting.
117. Q. Was Kimura there at that time?
A. No.
118. Q. Who assaulted Isabel that time?
A. Nobody.
119. Q. Anybody lay hands on her?
A. No.
120. Q. Were the men who were present laughing?
A. In the aisle outside the room, I do not know whether somebody was laughing.
121. Q. In the room?
A. Right inside the room, there wasn't anybody laughing. Since the room had big doors, I do not know whether somebody outside would be laughing.
122. Q. Was Isabel sitting down or standing up when you were questioning her?
A. Standing.
123. Q. Did you know if she was married?
A. That I did not know whether I asked her or not. I do not remember.
124. Q. Asked her whether she was pregnant?
A. Since I noticed that lots of these women in Guam have big stomach, I think I asked her whether she was conceived or not.
125. Q. Is that part of the investigation you were making?
A. Yes.
126. Q. What did that have to do with the investigation of a hat?
A. The routine which we used even in Japan, we have to ask the personal and physical status of the persons being questioned as much as that we ask what their name is or place of birth, but as far as in connection with the hat, there is nothing.
127. Q. If one is pregnant, what is the rule in Japan, does she

receive the same beating as one not pregnant?

A. When a woman is conceived or in such condition nothing could ever be done to her.

128. Q. And you say Isabel said she was not pregnant, is that right?

A. Since the question of being conceived and the question of that hat was too far apart, I do not remember what she said.

Reexamined by the accused:

129. Q. If a person is in good physical condition in Japan, is it lawful to use force in questioning?

A. Yes.

130. Q. How many times did you see Bordallo officially?

A. I have spoken to him twice officially, but since I was ordered and which I consider official, I have to go and look to him once a day.

131. Q. How many times did you officially question him?

A. Twice. The reason I just saw him twice is because I knew the case after the second time I questioned him, so I figure it useless for me to keep on asking questions after that.

Recross-examined by the judge advocate:

132. Q. Where did you see him in the five days he was in jail?

A. Everytime I looked at him, he would be inside the cell.

Neither the accused, the judge advocate, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness resumed his status as accused.

The defense rested.

The rebuttal began.

A witness for the prosecution in rebuttal entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.

A. Mabel P. Camacho, resident of Barrigada, and a housewife.

2. Q. If you recognize the accused, state as whom?

A. I do, Kowachi.

3. Q. How long have you known Kowachi, the accused?

A. About three months before they started investigating cases about the Americans.

4. Q. Do you know Pedro Camacho?

A. He is my husband.

5. Q. Were you on Guam during the Japanese occupation?
A. Yes.
6. Q. Did you see the accused on Guam during the Japanese occupation?
A. Yes.
7. Q. Did you ever see anything happen between your husband Pedro Camacho and the accused?
A. Yes.
8. Q. Where was that?
A. At the police office in Agana.
9. Q. When was it?
A. About three months before the American occupation.
10. Q. Who was present?
A. Kowachi and Pedro Guerrero.
11. Q. State what you saw happen?
A. The accused called my husband and asked him where the Americans were and when my husband said that he did not know, he took a gun and pointed it to the chest of my husband and then the accused said that if he didn't tell where the Americans were he will kill him, then he started to hit him with the gun.
12. Q. Did the accused hit your husband with the gun?
A. Yes.
13. Q. Proceed.
A. Then I got up and told the accused that my husband didn't know anything about Tweed and that if he kept on doing that I will report him over to the military police. Then the accused told me that my husband was telling a lie and that he knew about the Americans but would not say it. Then I said to him that he did not know anything about it and made him understand that I knew some of the officers in those days and that if he kept on with the punishment, I will report him and he quit.
14. Q. Did you ever see the accused after that time and before you saw him in court here today?
A. No.
- Cross-examined by the accused:
15. Q. Didn't you see the accused here in the courtroom before the opening of the court this afternoon?
A. Yes.
16. Q. At the time you speak of, wasn't your husband being held by the Japanese navy?
A. At that time, he was ordered to go out and hunt for Americans.
17. Q. Wasn't he ordered by the navy to go and look for Americans?
A. Both gave the order, the military police and the civil police.

18. Q. When you came in the courtroom this afternoon and saw the accused sitting by the guard, did you know he was the accused in this case?

A. Yes.

19. Q. At the time you say your husband was questioned who was the interpreter?

A. Pedro Guerrero.

20. Q. Was that the first time you ever saw the accused?

A. No.

21. Q. Did you know the accused that time?

A. Yes, I knew him.

22. Q. Had you spoken to him before?

A. At the time when I was working at the Telephone exchange, the accused came but I didn't speak to him, he spoke to the other girl that was with me.

23. Q. In other words, you did see him around?

A. That is right.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that she had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution in rebuttal entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, occupation and residence.

A. Gonzalo R. Eclavea, resident of Lalo, Barrigada, and a machinist.

2. Q. If you recognize the accused, state as whom?

A. Yes, I know his name is Kowachi.

3. Q. Were you on Guam during the Japanese occupation?

A. Yes.

4. Q. Did you see the accused on Guam during the Japanese occupation?

A. Yes, sir.

5. Q. Do you know Joaquin Limtiaco?

A. Yes, sir.

6. Q. Did you ever see anything happen between the accused and Joaquin Limtiaco?

A. Yes, at the time Limtiaco was arrested I, too, was arrested the same time.

7. Q. About what date was that?

A. That is around the month of March, exact date I do not remember, March or April before the American time.

8. Q. What year?
A. 1944.

9. Q. Where was this?
A. We were called up to that office of the Island Court.

10. Q. Please state what you saw happen between the accused and Joaquin Limtiaco?

A. I was called in and later on this fellow here went down and another fellow named Villagomez, Saipanese, stood there guarding us upstairs. This fellow went down and came back with a 45 and started questioning Limtiaco and a fellow Tweed and Limtiaco told him all what he knows about this fellow and still they didn't take his word for it. This fellow hit Limtiaco with the butt of the rifle, I do not know how many times, but quite a number of times.

11. Q. You mean the accused?
A. Yes, Mr. Kowachi.

12. Q. Proceed.

A. Then he said Limtiaco was telling a lie. This fellow let Limtiaco sit down on a chair. I was right behind Limtiaco there. He opened the trigger of that 45 and stick it into the ears of Limtiaco and said, "If you don't tell the truth for the last time, I am going to shoot you," and then he kept on pushing that pistol to his ears and finally Limtiaco tumbled down. Limtiaco stood up again and sat down on a chair. Villagomez and this fellow here started hitting Limtiaco with their fists, both hitting Limtiaco at the same time. While Limtiaco was already badly hurt, they finally sent me out of the room because they didn't want me to see what was going on.

13. Q. But you saw the accused beat Limtiaco with the 45 pistol?
A. Yes.

14. Q. You observed the physical condition of Limtiaco after he was beaten by the accused with the 45 pistol?
A. He was crying and groggy.

15. Q. Notice anything else?
A. He was bleeding out of his mouth.

16. Q. And that other person present was Jose Villagomez?
A. Jose Villagomez was there too. He hit Limtiaco a number of times. I do not know how many, with his fist. He has a bull whip too, and had several cracks at Limtiaco.

Cross-examined by the accused:

17. Q. Have you talked this over with Limtiaco?
A. No, I did not see him.

18. Q. When did you last see Limtiaco?
A. The last time I saw Limtiaco, I think, was Monday morning when I bought ice from the Island Utilities.

19. Q. Did you mention this episode?
A. No, sir.
20. Q. By whom were you arrested? By the navy was it?
A. By the fellow Villagomez, about 5:00 o'clock that afternoon. He said the Japanese Army Intelligence wanted to see me, but I knew what it is.
21. Q. By the Japanese Military Police?
A. At that time they call them the Kempetai, or something like that.
22. Q. When was the last time you discussed this episode with Limtiaco?
A. I never discussed anything with Limtiaco about this case.
23. Q. So when this case was over, you never talk about it?
A. No, sir.
24. Q. Never discussed your experiences?
A. No, sir.
25. Q. When was the next time you saw Limtiaco after this episode you testified about?
A. We together with Limtiaco used to go out and had little drink of tuba or something else.
26. Q. How soon after this episode?
A. During the Japanese time?
27. Q. Yes?
A. I see him quite very often; sometimes two or three times a week.
28. Q. Did you ask him how he was?
A. Never ask him.
29. Q. Never asked him how he felt after the beating?
A. I never question him about the beating. I know how he felt. Even if he didn't lie on bed sick, I know he will be a very sick man.
30. Q. Never talk about this case?
A. No, sir, not this particular case.
31. Q. Even if you saw him?
A. No, sir.
32. Q. You say Limtiaco had a lot of beatings?
A. Yes, Limtiaco got a lot of beating.
33. Q. You saw this accused on that occasion strike him?
A. Yes, because he beat me too at the same time, the same day.
34. Q. And you and Limtiaco never discussed your experiences?
A. Not about this case here.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission, then at 3:05 p.m., adjourned until 9:00 a.m., tomorrow, Wednesday, 19 September, 1945.

Third Day

HEADQUARTERS,
ISLAND COMMAND, GUAM.

Wednesday, 19 September, 1945.

The commission met at 9:00 a.m.

Present:

Colonel Walter T.H. Galliford, U.S. Marine Corps,
Major Harry S. Popper, junior, U.S. Marine Corps Reserve,
Major Robert H. Gray, U.S. Marine Corps,
Lieutenant Commander Joseph F. Walters, U.S. Naval Reserve,
Captain Francis J. Campbell, junior, U.S. Marine Corps Reserve,
Captain Quentin L. Johnson, U.S. Marine Corps Reserve,
Captain John W. Persse, junior, U.S. Marine Corps Reserve,
members, and
Lieutenant Colonel Teller Ammons, Army of the United States,
judge advocate.
Joaquin C. Perez, civilian, reporter.
Jorge E.U. Cristobal, Chief Steward, U.S. Navy, interpreter.
The accused and his counsel.

The record of proceedings of the second day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

The rebuttal ended.

The surrebuttal began.

The accused was, at his own request, recalled as a witness in his own behalf and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. Are you the accused in this case?
A. Yes, sir.

Examined by the accused:

2. Q. Do you remember ever seeing the witness Bolavea before he testified here yesterday?

A. I do not remember seeing him. Yesterday was the first time I ever saw him.

3. Q. Do you remember seeing Mrs. Camacho before yesterday?
A. While she was working at the Agana Telephone Exchange, for the first time I saw her. I do not know whether she was the wife of Pedro Camacho.

4. Q. Did you know her name?
A. I do not know her name.

Examined by the commission:

5. Q. You stated you do not remember seeing Eclavea, does that mean you have never seen him or that you do not know whether you have seen him or not?

A. I definitely never saw the person before. I do not know whether Eclavea has ever seen me since I worked at the police office.

6. Q. How long have you worked at the police office?
A. I worked in the police office on the month of October 1942 until the place was shot down.

7. Q. How many Guamanians did you investigate during that time?
A. Since I took investigation of all different sort of accusations, like robbery and all different sorts of accusations, I cannot remember, but there were so many of them.

8. Q. Could it be one a day?
A. Practically one or two a day.

9. Q. Do you know each one of those people by name and can you recognize each one you investigated?
A. I doubt the names, but if I see their faces I could recall them. The names of Guamanians are a little bit complicated to remember, but if I see their faces I could remember them.

10. Q. When was the jail broken?
A. It was broken in June 11, 1944.

11. Q. According to your figures then you probably investigated five or six hundred Guamanians, is that correct?

A. When I mentioned about investigating one or two heads a day, that does not mean that it was everyday line of job. Sometimes four days passed and one or two were brought in.

12. Q. How many did you investigate?
A. In all different cases, as far as I could remember and think there were three hundred.

13. Q. Can you be definite?
A. I do not remember very well, but that would be the closest amount and also in small cases I do not quite remember.

14. Q. Then you could very well have not remembered Eolavea, is that correct?

A. The reason why I cannot or I know that I never met Eolavea was that he mentioned that he came with Limtiaco in which Limtiaco was considered a big case, so then I am pretty sure I never met that person before.

15. Q. Then Eolavea was never in and around the jail while you were employed there?

A. No, sir.

Neither the accused, the judge advocate, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness resumed his status as accused.

The surrebuttal ended.

The accused read a written statement in his defense, appended marked "E", original appended marked "E(1)".

The judge advocate read his written opening argument, appended marked "F".

The accused read a written argument, appended marked "G".

The judge advocate made the following closing argument:

This man, the accused, was educated, so the counsel says, in the police schools of Japan. Whether he was educated to commit assaults on the people in Japan has no bearing in this case. He is charged with the violation of the Penal Code of Guam. The Penal Code of Guam was in force and effect at the time he committed the act. The Japanese or any temporary occupancy of a country does not necessarily terminate the sovereignty of a sovereign power. That is what the war is about. There is no civilized country that would permit abuses and assaults to be committed on its fellow men. The laws of God and of man do not permit it and certainly the laws of Japan would not be higher than the laws of the United States as counsel for accused is contending. When he says that this disreputable custom of Japan takes preference over the laws of the United States, I must disagree with him. The laws of Guam were in effect. If their theory is that by this Japanese custom they are permitted to nullify the laws of the United States and the Penal Code of Guam, there is no evidence of it in the record of this case. The accused said their orders were to get these people, American people, and teach them the way of the Japanese. Is this the way they were doing it, by abuses and assaults. Not only did they assault a man with a high reputation, but also a woman. You heard the testimony. The people of Guam, American nationals, have been protected and are law abiding citizens under the Penal Code of Guam. They were appealing because they were assaulted by people who came in here as uninvited guests of Japanese, of whom the accused is one. And

now to have the temerity to come in and say that the Penal Code of Guam is out; they didn't even say that. In answer to the counsel, there has been a search made through the Judge Advocate General of the Navy and nothing was found. It is incumbent on the accused to prove in this case whether any amendment or repeal was made, but did he do it? No. We accused him under the Penal Code of Guam and there has been no challenge of it. In this case we owe something to the people of Guam, the true Americans, under the domination of the Japanese Empire. We came back, we found violations under that Penal Code under which they were living. We made accusations against their own people the same as anyone else, anyone on this Island who violated the Penal Code of Guam. It would not be fair to the people of Guam for anybody to say that that is the Japanese custom and the accused was ordered to do it, which brings me to that point - order. If that would hold water, there would be only one man who could be tried for all murders and all assaults and that were committed throughout the Pacific Theater. If that is to be followed, the only man would be the man who started this war; that would be the head of the army, Japanese Army, of which the accused was operating and acting as member. That would be an easy way out. There is no one who could give such an order; not even an American Government can give orders violating the Penal Code of Guam, let alone an order from an enemy. The President of the United States could not do it. That is the sacred law by which this people is guided; and which we insist they live up to; and certainly we cannot expect you to come in and say you didn't recognize that law or that the accused was ordered or the like. To attempt to say that he was ordered to do it is no defense; the man who ordered him did not have any right therefore a subordinate could not be elevated higher than the man that originated the order. The accused mentioned Section 347, that has nothing to do with the laws of Guam, that is under the Rules of Land Warfare. The accused was not accused under the Rules of Land Warfare. The accused mentioned the Bordallo case. There was a time and place of each assault when the accused assaulted Bordallo. On the 17th, 18th, 19th, 20th and 21st day of August 1943 - so we have the place, the time and what it was. What else do you need. The evidence proves the accused committed the offense; where, how by whom and when were all proved.

The trial was finished.

The commission was cleared.

The judge advocate was recalled and directed to record the following findings:

The first specification of the charge proved.

The second specification of the charge proved.

The third specification of the charge proved.

The fourth specification of the charge proved.

The fifth specification of the charge proved.

The sixth specification of the charge proved.

The seventh specification of the charge proved.

The eighth specification of the charge proved.

The ninth specification of the charge proved.

The tenth specification of the charge not proved.

The eleventh specification of the charge proved.

The twelfth specification of the charge proved.

The thirteenth specification of the charge proved.

The fourteenth specification of the charge proved.

And that Kanzo Kowachi is of the charge guilty.

The commission was opened and all parties to the trial entered. The commission informed the accused that it found the tenth specification of the charge not proved.

The judge advocate stated that he had no record of previous conviction.

The commission was cleared.

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The Commission, therefore, sentences him, Kanzo Kawachi to be imprisoned for a period of six (6) years and six (6) months

W. T. H. Galliford

WALTER T. H. GALLIFORD,

Colonel, U.S. Marine Corps, Senior Member,

Harry S. Popper, Junior
HARRY S. POPPER, JUNIOR,

Major, U.S. Marine Corps Reserve, Member,

Robert H. Gray
ROBERT H. GRAY,

Major, U.S. Marine Corps, Member,

Joseph F. Walters
JOSEPH F. WALTERS,

Lieutenant Commander, U.S. Naval Reserve, Member,

Francis J. Campbell, Junior
FRANCIS J. CAMPBELL, JUNIOR,

Captain, U.S. Marine Corps Reserve, Member,

Quentin L. Johnson
QUENTIN L. JOHNSON,

Captain, U.S. Marine Corps Reserve, Member,

John W. Persse, Junior
JOHN W. PERSSE, JUNIOR,

Captain, U.S. Marine Corps Reserve, Member,

Teller Ammons
TELLER AMMONS,

Lieutenant Colonel, Army of the U.S., Judge Advocate.

The commission then, at 11:00 a.m., adjourned to await call by the senior member.

W.T.H. Galliford
WALTER T.H. GALLIFORD,
Colonel, U. S. Marine Corps, Senior Member.

Teller Ammons
TELLER AMMONS,
Lieutenant Colonel, Army of the U.S., Judge Advocate.

A Translation of The Written Statement of Kanzo Kawachi.

I am a naval military civilian civil affairs policeman. I performed my duties according to the orders of my superiors on Guam during the Japanese period. Now I am in serious trouble with America in regard to the beating of a Guam native while in the performance of duties. In Japan, the policeman strikes the offender in the criminal investigation. The Japanese policeman does this openly. I did this proper act, but now it is the American period. If my act has been serious, I think the cause is the difference in the principles of Japan and America. From now on I will study the democratic system of America and will devote myself according, to the orders of America which is the world's leading power. America which is guiding the world. In the sense of the rescue of the Japanese, please pardon my action. In the future I will work for America in thoroughness to teach the American principles to the Japanese people.

September 17, 1945.

KAWACHI, KANZO

海軍軍務部 警察官、
日本時代、
職務ヲ遂行シテ、
イタトニ今々米國ニ非常ニ迷惑
ヲケシ、
日本警察官ハ犯罪捜査上犯人ヲ
ノットガリアス之ハ日本警察官、
公然認メテアリマス

今米國時代ニシテ、
相違ハ原因ト思ヒマス
和行爲モ應々言ハバ米國上日本主義
等國デアリ米國命令通リ身ヲ操

世思リ格遵サレ米國、
御意時ニ於テ今、和行爲ニ對シ何等
シ日本民衆ニ徹然ニ様ニ米國、タリ
勵キマス

昭和二十九年九月十七日 河内漢造

(STATEMENT OF KANZO KAWACHI)

Judge advocate's written opening argument

The first witness was Isabel Taitano Cruz who testified she was beaten by the accused with a ruler in the evening of June 3, 1944, and again before breakfast on June 4, 1944. At this time the accused used a bull whip. The accused again took her about noon on the 4th of June and after the last beating accused asked Mrs. Cruz if she was pregnant, "and he was feeling all over my breast, pressed my stomach and feeling my.....and so he was laughing with the others. There was Pedro Leon Guerrero and a couple more Japs. All acted as if they were having lots of fun." Then about supper time on the same day accused beat her again. As a result of these beatings she testified that she was bleeding and did not work for one week.

The next witness was Joaquin A. Limtiaco. Limtiaco stated that the accused assaulted him with a revolver and also kicked him. There is no doubt that Limtiaco knows the accused and also Gonzalo Eclavea testified that he was an eye witness to this beating with a revolver. When he was asked if the accused used a revolver he said that he did carry a revolver sometimes.

The next witness was Pedro D. Camacho who stated that he was beaten by the accused with a pistol in the presence of his wife and Pedro Guerrero. The wife corroborated the statement of Camacho.

The next witness was B.J. Bordallo who stated that the accused assaulted him on August 17, 18, 19, 20 and 21, 1943, and that the regular routine after the first day was to come before the accused and that the accused assaulted him twice a day thereafter until he was released.

Witnesses in behalf of the accused were Jose P. Villagomez, Pedro Guerrero and a Japanese named Ogawa. Villagomez did not remember whether Kowachi, the accused, was looking for Tweed in 1944. The next witness, Pedro Leon Guerrero, testified that he remembered when Isabel T. Cruz was summoned to the jail and investigated by the accused. Ogawa was not in the room the entire time and does not know what may have happened when he was not there. The accused should be found guilty.

Teller Ammons
TELLER AMMONS

Lieutenant Colonel, Army of the U.S.,
Judge Advocate.

"P"

0446

Argument of the accused

May it please the commission. I wish to point out that when a witness remembers too well, the testimony becomes suspect. The honest witness frequently, if not indeed normally, makes a mistake or two.

Taking up the specifications in the order in which the evidence was offered:

In the case of Isabel Taitano Cruz the accused evidently interviewed her in the evening, he denies he struck her. He certainly didn't do so while Ogawa and Guerrero were there. He gives a logical explanation of his whereabouts the following day - he was out in the field following up what she told him. His story that he did not interview her again is logical and to be believed.

In the cases of Limtiaco and Camacho, the accused maintains unshakenly that he has never seen them before. They were beaten once long ago by one Shimada. Apparently the military police may have sent for them in the Spring of 1944. The accused's name was apparently well known. Assuming that they were beaten by somebody at that time a mistaken accusation founded upon a well known name would be easy, ripening into a subsequent courtroom mistake in identification. The wife of Camacho came into the courtroom and saw the accused sitting here obviously the accused. Instinct would indicate that he was the man on trial and could easily and innocently lead to a mistake in identity. The statement by Eclavea that he and his good friend Limtiaco took a bad beating, saw and have seen each other frequently at all times since then and yet have never even mentioned the episode to each other is so palpably preposterous as to indicate that his entire testimony must be in error. It is apparent in the accusations of Limtiaco and Camacho that, to put it charitably. There has been a serious mistake in identity. Specifications 13 and 14 are not proved beyond a reasonable doubt. In fact they are not proved at all.

In the case of Bordallo, the apparent inconsistency in the accused's testimony as to the number of times he saw him is manifestly explained by language difficulty - he considered he saw him officially twice.

The witness Bordallo, testifying to an event which on his own testimony was obviously one episode divided into installments, was understandably confused. He himself admitted that he was not certain as to the twenty-second - that automatically eliminates specification 10. That also casts serious doubt on specification 9, for if the twenty-first was the last day, then, on the prosecuting witness's own testimony, there could be only one beating on that day, and in the morning. Therefore specification 9 is eliminated. The prosecuting witness further admitted that he was testifying on the basis of a remembered routine, rather than an individual recollection of each episode. He did not remember who whipped him with what - the allegation as to the bull whip falls by the wayside. He could identify the days only upon a series of questions closely bordering upon leading questions. Then upon cross-examination he stated he was first examined at one p.m. on the seventeenth, and twice later in the

same day. Incidentally if the seventeenth was a full day 5 days would bring us to the 21st only. This is at variance with the specifications and with his direct testimony. There is evidence that he was struck at least three times at or about the time alleged. But ten striking are alleged with great particularity. The situation differs from one where an assault is alleged to have taken place "at or about" a given time. It is contended that that magic phrase does not save the prosecution's case, and that ten individual strikings must be proved and identified with great particularity. The witness further stated that he was beaten alternately by the accused and another Japanese. It is perfectly possible that he is further confused at this late date and that if he was beaten more than twice the alternate Japanese was the one who did the beating.

The prosecution made much of a rather irrelevant contract, so called, allegedly entered into by the witness. Obviously it was initiated by Kimura. Kimura and Hirata, the superiors of the accused were present. Kimura gave the orders and gave them in accordance with Japanese law. The accused was trained as a Japanese policeman - he had no reason to question the order and I think it is clear what would happen to him if he disobeyed. The contract proves the contention of the defense that the accused was a mere subordinate. The acts of the accused were lawful under the laws of Japan. The Japanese had the power to change the laws of Guam during their occupancy. In Hyde, International Law, Second Revised Edition, page 1885, it is stated that "It may be observed that what the occupant enacts or decrees in the exercise of its legislative power must be deemed to be the law of the place under occupation, notwithstanding the fact that it contradicts and is defiant of the will of the territorial sovereign as exemplified in its then existing legislation." Article 286 of the Rules of Land Warfare (War Department FM 27-10) provides that the military occupant may suspend existing laws and promulgate new ones. And Article 288 indicates that the control of the country and protection of the army are the primary consideration. That this may be done by administrative action is clear. The prosecution contends that it relies upon the laws of Guam, but introduces no evidence that they remained in force. In fact it is quite apparent that they did not, at least in respect to assault and battery as applied to police methods. This is apparent from the orders from the Minseibu and from the actions of Kimura, Hirata and others. The Penal Code of Guam insofar as inconsistent therewith was manifestly suspended during the occupation. In considering the question of administrative suspension it should be remembered that the Penal Code itself is an administrative decree and not a legislative enactment.

In the Bordallo incident the superiors were present and giving the orders - that is not questioned. Article 347 of the Rules of Land Warfare provides that the subordinate is protected from the consequences of acts done under the orders or sanction of his government or commanders. Even if it be held that the Penal Code remained in force, this section should protect the accused for if it be not applied to any acts which

may incidentally violate some provisions of pre-existing local law, then it becomes an idle provision; for there are few acts named therein which would not normally constitute such a violation. Furthermore it cannot be expected that the accused would have been advised or informed of any illegality inherent in any instructions he received thereunder. Court Martial Order 4-1935, 14.

Punishment of an individual does not re-educate a race and if the accused should by chance be convicted of any of the specifications it is earnestly requested that the court remember that the accused, a graduate of the Police School in Tokyo, was simply following his orders and his training, serving his country according to his lights, and no real guilt attaches to him as an individual.

Henry P. Bakewell
HENRY P. BAKEWELL
Lieutenant, U.S. Naval Reserve,
Counsel for the accused.

"G"

0449

HEADQUARTERS,
ISLAND COMMAND, GUAM.

OCT 22 1945

I hereby acknowledge the receipt of a copy of the record of proceedings
of my trial by Military Commission, held September 17 to 19, 1945.

KAWACHI KANZO
KANZO KOWACHI

0450

1400-65-25
(610)-wka

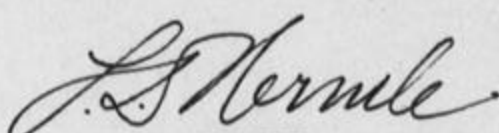
In reply address:
The Island Commander,
Navy #926, C/O F.P.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

OCT 24 1945

The proceedings, findings, and sentence in the foregoing case of Kanzo Kawachi are approved.

The Island Command Stockade, Guam, is designated as the place for the execution of so much of the sentence as relates to confinement.


L. D. HERMLE,
Brigadier General, U. S. Marine Corps,
The Island Commander.

0451

1400-50
(610)-m

Serial No. 12664

In reply address:
The Island Commander,
Navy 7926, C/O F.P.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

21 July 1945.

From: The Island Commander.
To : Colonel Walter T. H. Galliford, U.S. Marine Corps.
Subject: Precept convening Military Commission of Guam.
Reference: (a) Proclamation No. 4, Military Government of Guam.

1. Pursuant to the authority vested in me by Fleet Admiral Chester W. Nimitz, United States Navy, Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, Military Governor of Guam, a Military Commission is hereby ordered to convene at Agaña, Guam, on the 23rd day of July 1945, or as soon thereafter as practicable, for the trial of such persons as may legally be brought before it.

2. The Commission will be constituted as follows:

Colonel Walter T.H. Galliford, U.S. Marine Corps, senior member,
Major Foster H. Krug, U.S. Marine Corps Reserve,
Major Harry S. Pepper, Junior, U.S. Marine Corps Reserve,
Lieutenant Joseph B. O'Connell, U.S. Naval Reserve,
Captain Quentin L. Johnson, U.S. Marine Corps Reserve,
Captain Alfred J. Dickinson, Junior, U.S. Marine Corps Reserve,
Lieutenant George W. Dean, U.S. Naval Reserve, Members,
any five of whom are empowered to act, and of
Lieutenant Colonel Teller Ammons, Army of the United States,
judge advocate.

3. This commission is hereby authorized and directed to take up such cases, if any, as may be now pending before the military commission of which Colonel Walter T. H. Galliford, U.S. Marine Corps, is senior member, convened by my precept of June 16, 1945, except such cases the trial of which may have been commenced.

4. This commission shall be competent to try all offenses within the jurisdiction of the Exceptional Military Courts, including offenses in violation of the Penal Code of Guam, and to impose any lawful punishment.

5. Power of adjournment is inherent in the commission, and adjourned sessions may be held at such times and such places as the commission may determine.

6. You will inform the members and judge advocate that they will continue on Military Commission duty under their previous orders.

/s/ HENRY L. LARSEN,
Major General, U.S. Marine Corps,
The Island Commander.

COPY

0452

BEST COPY AVAILABLE

1400-50
(610)-skm

Serial No. 10450

In reply address:
The Island Commander,
Navy #926, C/O F.P.O.
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

16 June 1945.

From: The Island Commander.
To : Colonel Walter T. H. GALLIFORD, U. S. Marine Corps.
Subject: Precept convening Military Commission of Guam.
Reference: (a) Proclamation No. 4, Military Government of Guam.

1. Pursuant to the authority vested in me by Fleet Admiral Chester W. Nimitz, United States Navy, Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, Military Government of Guam, a Military Commission is hereby ordered to convene at Agaña, Guam, on the 16th day of June 1945, or as soon thereafter as practicable, for the trial of such persons as may legally be brought before it.

2. The commission will be constituted as follows:

Colonel Walter T. H. GALLIFORD, U. S. Marine Corps,
Senior member,
Major Foster H. KING, U. S. Marine Corps Reserve,
Major Samuel A. GARDNER, U. S. Marine Corps Reserve,
Lieutenant Roland GRIMM, U. S. Naval Reserve,
Captain Quentin L. JOHNSON, U. S. Marine Corps Reserve,
Captain Alfred J. DICKINSON, Junior, U. S. Marine Corps Reserve,
Lieutenant George W. DEAN, U. S. Naval Reserve, members,
any five of whom are empowered to act, and of
Lieutenant Colonel Teller AMMONS, Army of the United States, judge advocate.

3. This commission is hereby authorized and directed to take up such cases, if any, as may be now pending before the military commission of which Colonel Walter T. H. GALLIFORD, U.S. Marine Corps, is senior member, convened by my precept of April 13, 1945, except such cases the trial of which may have been commenced.

4. This commission shall be competent to try all offenses within the jurisdiction of the Exceptional Military Courts, including offenses in violation of the Penal Code of Guam, and to impose any lawful punishment.

5. Power of adjournment is inherent in the commission, and adjourned sessions may be held at such times and such places as the commission may determine.

6. You will inform the members and judge advocate that they will continue on Military Commission duty under their previous orders.

HENRY L. LARSEN,
Major General, U. S. Marine Corps,
The Island Commander.

COPY

0453

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1400-30-65
(610)-jam

Serial No. 6995

In reply address:
The Island Commander,
Navy #926, C/O P.F.O.,
San Francisco, Calif.

HEADQUARTERS,
ISLAND COMMAND, GUAM.

April 13, 1945.

From: The Island Commander.
To: Colonel Walter T. H. Galliford, U. S. Marine Corps.
Subject: Precept convening Military Commission of Guam.
Reference: (a) Proclamation No. 4, Military Government of Guam.

1. Pursuant to the authority vested in me by Admiral of the Fleet Chester W. Nimitz, United States Navy, Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, Military Governor of Guam, a Military Commission is hereby ordered to convene at Agaña, Guam, on the 16th day of April, 1945, or as soon thereafter as practicable, for the trial of such persons as may legally be brought before it.

2. The commission will be constituted as follows:

Colonel Walter T. H. Galliford, U. S. Marine Corps, senior member,
Lieutenant Colonel George E. Congdon, U. S. Marine Corps Reserve,
Major Foster H. Krug, U. S. Marine Corps Reserve,
Major Richard P. Rice, U. S. Marine Corps Reserve,
Major Samuel A. Gardner, U. S. Marine Corps Reserve,
Lieutenant Commander Avery W. Thompson, U. S. Naval Reserve,
Lieutenant Commander Ralph L. Coffelt, U. S. Naval Reserve, members,
any five of whom are empowered to act, and of
Lieutenant Colonel Teller Ammons, Army of the United States, judge
advocate.

3. This commission is hereby authorized and directed to take up such cases, if any, as may be now pending before the military commission of which Colonel Walter T. H. Galliford, U. S. Marine Corps, is senior member, convened by my precept of January 19, 1945, except such cases the trial of which may have been commenced.

4. This commission shall be competent to try all offenses within the jurisdiction of the Exceptional Military Courts, including offenses in violation of the Penal Code of Guam, and to impose any lawful punishment.

5. Power of adjournment is inherent in the commission, and adjourned sessions may be held at such times and such places as the commission may determine.

6. You will inform the members and judge advocate that they will continue on Military Commission duty under their previous orders.

ROBERT BLAKE,
Brigadier General, U. S. Marine Corps,
The Island Commander.

COPY

0454

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100-45
(602)-cm

Serial No.

19738

HEADQUARTERS,
ISLAND COMMAND, GUAM.

In reply address:
The Island Commander,
Navy 4926, c/o P.F.O.,
San Francisco, Calif.

NOV 14 1945

From: The Island Commander.
To: The Secretary of the Navy (Office of the Judge Advocate
General).
Via: The Commander in Chief, U. S. Pacific Fleet and Pacific
Ocean Areas.

Subject: Records of proceedings of Military Commission.

Enclosures (A) Samuel F. Shinohara, case of.
(B) Akiyoshi Hoshikawa, case of.
(C) Kenzo Kawachi, case of.
(D) Jose C. Cabrera, case of.
(E) Hirose Ogawa, case of.
(F) Koji Shoji and Kiyoshi Takahashi, case of.
(G) Domingo S. Quintanilla, case of.
(H) Ltr. Incom to SecNav, serial 19311, dtd. 5Nov45.

1. The enclosures are forwarded for information and such
action as may be deemed appropriate.

2. These enclosures were previously forwarded via official
channels on the dates set forth below but were returned to this command
on November 5, 1945 by messenger with oral instructions to omit Commander
Harrison from the routing and only to send a copy to that command for
information.

Date forwarded to ComNavies.

Enclosure (A)	October 13, 1945.
Enclosure (B)	October 14, 1945.
Enclosure (C)	October 25, 1945.
Enclosure (D)	October 25, 1945.
Enclosure (E)	October 25, 1945.
Enclosure (F)	October 30, 1945.
Enclosure (G)	November 2, 1945.
Enclosure (H)	November 5, 1945.

L. B. HARRIS.

0455

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1400-65-25
(610)-wka

Serial No. 18684

HEADQUARTERS,
ISLAND COMMAND, GUAM.

In reply address:
The Island Commander,
Navy #926, C/O F.P.O.,
San Francisco, Calif.

25 October 1945.

From: The Island Commander.
To : The Secretary of the Navy (Office of the Judge Advocate
General).
Via : (1) Commander Marianas.
(2) Commander-in-Chief, U. S. Pacific Fleet and Pacific
Ocean Areas.

Subject: Record of proceedings of Military Commission, case of
Kanze Kawachi.

Enclosure: (A) Record of Proceedings.

1. Enclosure (A) is forwarded for information and such
action as may be deemed appropriate.

L. D. HERMLE,
Brigadier General, U. S. Marine Corps,
The Island Commander.

0456

BEST COPY AVAILABLE

NAVY DEPARTMENT
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
Washington 25, D. C.

Op22D-TGS-
Serial No. 604P22

13 May 1946

FIRST ENDORSEMENT on

Office of JAG Record of Proceedings, MM-Cabrera, Jose C./A17-20
I (2-14-46) emm; MM-Hosokawa, Akiyoshi/A17-20 I (5-1-46) dmb;
MM-Ogawa, Hirose/A17-20 I (5-1-46) dmb and MM-Kawachi, Kanzo/A17-
20 I (5-1-46) dmb dated 7 May 1946.

From: Chief of Naval Operations.
To: Judge Advocate General.

Subject: Record of Proceedings of Military Commission at
Agana, Guam in the cases of CABRERA, Jose C.;
HOSOKAWA, Akiyoshi; OGAWA, Hirose and KAWACHI,
Kanzo.

1. Returned.

/s/

W. F. JENNINGS,
By direction.

FINISHED FILE

0457



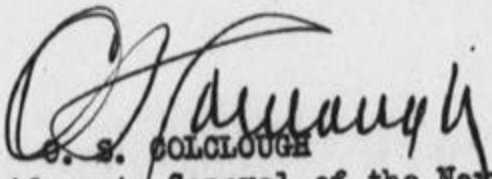
DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

MM-Kawachi, Kanzo/Al7-20
I (5-1-46) dmb

1 MAY 1946

The proceedings, findings, and sentence in the foregoing military commission of Kanzo Kawachi, and the action of the convening authority thereon, in the opinion of the Judge Advocate General, are legal.

Referred to the Chief of Naval Operations, CNO, Op22, for information and return to this office.


S. S. COLCLOUGH
Judge Advocate General of the Navy

FINISHED FILE

0458



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

HM-Kawachi, Kanse/Alv-20
I (S-1-46) dnb

The proceedings, findings, and sentence in the foregoing military commission of Kanse Kawachi, and the action of the convening authority thereon, in the opinion of the Judge Advocate General, are legal.

Referred to the Chief of Naval Operations, CNO, Op22, for information and return to this office.

O. S. COLCLOUGH
Judge Advocate General of the Navy

0459



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

HM-Kawachi, Kanse/A17-20
1 (5-1-46) amb

The proceedings, findings, and sentence in the foregoing military commission of Kanse Kawachi, and the action of the convening authority thereon, in the opinion of the Judge Advocate General, are legal.

Referred to the Chief of Naval Operations, CNO, Op22, for information and return to this office.

O. S. OOLCLOUGH
Judge Advocate General of the Navy

0460

Cinepac File
AL7

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
Headquarters of the Commander in Chief

Serial 1219

c/o Fleet Post Office,
San Francisco, California.

23 JAN 1946

In reviewing the record of proceedings in the foregoing case it is noted that the accused was tried before a Military Commission, an Exceptional Military Court convened by a precept dated 20 August 1945. The order for trial which contained the charge and specifications was dated 26 April 1945. In this connection attention is invited to paragraph 3 of the precepts respectively dated 13 April 1945, 16 June 1945, and 21 July 1945. Copies of these precepts are attached to this action and show that the commission convened by the precept dated 20 August 1945 was authorized and directed to take up this case as one which was then pending before a previous commission. Further the accused affirmatively stated that he had no objection to any member of the commission which tried him.

The proceedings, findings and sentence in the foregoing case of Kanzo Kawachi, civilian, and the action of the convening officer thereon, are approved.

R. A. Spruance

R. A. SPRUANCE,
Admiral, U.S. Navy,
Commander in Chief,
United States Pacific Fleet
and Pacific Ocean Areas
and Military Governor, Guam.

To: Judge Advocate General.

Re: Record of proceedings of Military Commission - Case of
Kanzo Kawachi.

Copy to:
IsCom GUAM
Com MARIANAS

0461

Group File
127

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREA
Headquarters of the Commander in Chief

Serial

1219

c/o Fleet Post Office,
San Francisco, California.

23 JAN 1946

In reviewing the record of proceedings in the foregoing case it is noted that the accused was tried before a Military Commission, an International Military Court composed by a procept dated 25 August 1945. The order for trial which contained the charge and specifications was dated 25 April 1945. In this connection attention is invited to paragraph 3 of the procepts promulgated dated 25 April 1945, 26 June 1945, and 21 July 1945. Copies of these procepts are attached to this action and also that the Commission composed by the procept dated 25 August 1945 was authorized and directed to take up this case as one which was then pending before a previous court-martial. Further the accused affirmatively stated that he had no objection to any action of the Commission which tried him.

The proceedings, findings and sentence in the foregoing case of Isaac Kowach, civilian, and the action of the reviewing officer thereon, are approved.

R. A. SPURGEON,
Admiral, U.S. Navy,
Commander in Chief,
United States Pacific Fleet
and Pacific Ocean Area
and Military Governor, Guam.

To: Judge Advocate General.

Re: Record of proceedings of Military Commission - Case of Isaac Kowach.

Copy to
Judge Advocate
General, Washington

0462

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