

DECLASSIFIED

Authority: NND 760050 (1945-1949)

By: NARA NARA Date: 1976

NISUKE MASUDA et al.

(7 Dec 1945)

(146473)

1188



1189

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

A17-10/FF12
13-WEA-fjm

Serial: (13)2

25 February 1946.

MEMORANDUM FOR Cincpac-Poa.

Subject: Case of:
Rear Admiral-Nisuki Masuda,
Lieutenant (jg) Tsugio Yoshimura,
Ensign Mamoru Kawachi,
Ensign Tadashi Tasaki,
Warrant Officer Tashimoto Tanaka,
each attached to and serving with the Imperial Japanese
Navy.

References: (a) Cincpac-Poa rest. dis. 170150 Dec. 45.
(b) My memo, serial (13)1, of 20 Feb. 46 in case of
Col. C. Oishi, et al.

Enclosures: (A) Record of subject case (original and two copies).
(B) Proposed action to be taken by Cincpac-Poa on
subject case.

1. In accordance with reference (a) the following comments and
recommendations are submitted.

2. ORGANIZATION, CONSTITUTION AND PROCEEDINGS OF MILITARY
COMMISSION.

Cincpac-Poa specifically authorized ComMarGils Area to convene
military commissions for the trial of war crimes (R. Ex. N). Accordingly,
the military commission for the instant case was convened at the U.S. Naval
Air Base, Kwajalein Island, Kwajalein Atoll, Marshall Islands, by ComMarGils
Area by precept of 3 November 1945. The Commission was composed of five
naval officers and two Army officers. One naval member of the Commission was
relieved prior to trial without relief, leaving the Commission composed of
six members. The two Army members were properly on the Commission for the

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reasons set forth in the last part of paragraph 2 of reference (b). The accused made no objection to any member on the Commission. The Commission was authorized to use the so-called "SCAP" rules (Cincafpac - AG - 000.5 (24 Sep 45) JA regulations) governing the trial of war criminals (R. Ex. D).

3. THE ORDER FOR TRIAL was issued 3 December 1945 and contained only one charge, "MURDER", with one specification alleging that the five accused named in the above subject killed three American flyers, unarmed prisoners of war, in the Marshall Islands on 10 March 1944. The charge and specification, written in both the Japanese and English languages, were received by each accused on 4 December 1945 (R.p.1). The trial began 7 December 1945. The accused were represented by both U.S. naval and Japanese naval defense counsel.

4. STATEMENT OF FACTS: In February 1944, three American naval flyers were forced down at sea because of engine failure and drifted ashore at Jaluit in a rubber boat (R.p.18). Two natives took the American flyers to a house on Lebjer Island and during the night the Japanese came and took the Americans as prisoners of war after inflicting a wound on the head of one of the flyers. The flyers were then taken and imprisoned at the Naval Garrison Force, Emidj Island (R.p.8). Admiral Masuda was in command of this (62nd) Naval Garrison Force. About 10 March 1944 he ordered one of the accused, Yoshimura, to obtain two assistants and execute the three flyers in secrecy during the nighttime. Yoshimura relayed this order to two of the accused, Kawachi and Tanaka, who later confirmed the order with the admiral.

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One of the accused, Tasaki, was assistant to the officer in charge of the garrison police at Emidj Island where the Americans were under prison guards. He was ordered by the admiral to secretly release the flyers on the night of 10 March to Yoshimura as the flyers were going to be executed that night. Tasaki arranged for the flyers to be turned over to Yoshimura for execution as ordered by the admiral.

About nine o'clock during the night of 10 March 1944 three of the accused, Yoshimura, Kawachi and Tanaka, obtained custody of the three American flyers, put them in a truck and were driven about four kilometers to a cemetery on Aineman Island where the three accused shot and stabbed the three Americans to death. The Americans were executed without trial (R.p.20).

One of the accused, Admiral Masuda, committed suicide on 5 October 1945. A nolle prosequi was entered as to him in this case (R.p.45).

5. FINDINGS AND SENTENCES: The Commission found the charge and the specification proved as to four of the accused, Yoshimura, Kawachi, Tasaki and Tanaka, and sentenced Yoshimura, Kawachi and Tanaka each to be hanged and sentenced Tasaki to imprisonment for ten years. The proceedings, findings and sentences were approved by the convening authority on 19 December 1945.

6. COMMENTS ON PLEAS AND OBJECTIONS.

(a) The accused objected to including in the specification that the offense was in violation of the "moral standards of civilized

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society" as such was improper and non-legal. The objection was properly overruled as the accused were being tried in violation of the laws of war, which laws are in part predicated on the moral standards of civilized society. The specification having alleged the offense of murder, the accused were fully apprised as to what they were being called on to answer.

(b) The accused made a plea to the jurisdiction of the Commission (R.p.2) upon the four grounds set forth in their brief (R. Ex. K). Each of the four parts of the plea is considered separately.

(1) The first part of the plea to the jurisdiction deals with the question of Congressional delegation of authority to try war crimes. That contention was fully answered in paragraph 5 of reference (b), which shows that the military commission has jurisdiction to try cases such as the instant case.

(2) The accused contended that the Commission has no jurisdiction because the charge and specification are founded on ex post facto laws. That contention is not well founded because the accused were charged with murder which was an offense under the laws existing at the time alleged in the specification.

(3) The accused objected to the jurisdiction because of the adoption of the so-called SCAP rules. The Commission has jurisdiction for the reasons set forth in paragraph 5 of reference (b) and the adoption of rules to be used as a guide at the trial has no bearing upon the question of jurisdiction.

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(4) The fourth part of the accused's plea to the jurisdiction deals with venue and the accused contended that under the so-called SCAP rules that the trial should have been held at Jaluit. There is no merit in such contention as the execution was, in fact, committed on the island of Aineman. The flyers were imprisoned at Enidj Island where one of the accused, Tasaki, released custody of them to three of the accused, Yoshimura, Kawachi and Tanaka. Kwajalein was the proper and practicable place for the Commission to sit and hear the case. That island, as well as the other ones mentioned, were in the area commanded by the convening authority. The accused neither contended nor does the record show that any one of the accused was prejudiced by the trial being conducted at Kwajalein.

The accused further contended that they had the election as to whether they would be tried by military or civil tribunal. There is no foundation for such contention.

(c) During the trial the accused and also the judge advocate made objections to the admissibility of evidence (R.pp.10, 14, 19, 24, 29, 30, 35, 38, 41, 42, 43, 44, 47, 48, 52, 53, 55 and 57). Each of these objections and the ruling of the Commission on each objection has been considered. No right of any accused has been prejudiced by any ruling of the Commission.

7. OPINION AND RECOMMENDATION.

By the accused's own admissions there is ample evidence to fully support the findings of the Commission. The defense predicated upon

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the evidence tending to show that the accused took part in the execution in obedience to superior orders is of no avail as the command of a superior neither excuses nor justifies an unlawful act (Clark and Marshall, The Law of Crimes, 4th ed., sec. 71, n.310; CMD 212-1919, p.5; CMD 4-1929, p.19).

One of the accused, Tasaki, by having the Americans under his control and in his custody, owed a duty to safely keep them. The order that he received from the admiral to release them for execution was unlawful and would neither justify nor excuse his releasing them to be murdered. He had been informed of the purpose of turning them over to Yoshimura; he knew or should have known that the execution would be murder. By his act in releasing the Americans to be murdered, Tasaki became an accessory before the fact and guilty as a principal. For the reasons set forth in paragraph 17(1) of reference (b), each accused knew or should have known that he was committing murder by his part in the execution of the victims in this case.

It is noted that the judge advocate introduced in evidence (R.p.3) a dispatch from the Commander Marshalls Gilberts Area to Secretary of State and the Secretary of the Navy and to others for information (R. Ex. P). The dispatch names the five accused as "prisoners of war." It is considered that none of the accused attained a prisoner of war status. They were disarmed military personnel who surrendered after 2 September 1945. (See J.C.S. 1328/5 of 10 Sept. 45 and J.C.S. 1380/9 of 22 Sept. 45, p. 116 of encl.) In no event would any of the accused have a prisoner of war status for the

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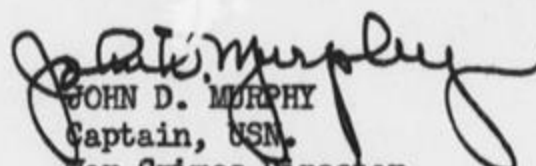
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25 February 1946.

purpose of this trial for a war crime committed prior to being taken into custody. (See my memo of 10 Jan. 46 in case of Akiyoshi HOSOKAWA - Guam).

It is RECOMMENDED that the proceedings, findings, sentences and action of the convening authority be approved as to each of the accused.

8. A proposed action is enclosed herewith as enclosure (B).


JOHN D. MURPHY
Captain, USN.
War Crimes Director,
Pacific Ocean Areas.

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Case of

Rear Admiral Nisuke Masuda, IJN;
Lieutenant (jg) Tsugio Yoshimura, IJN;
Ensign Mamoru Kawachi, IJN;
Ensign Tadashi Tasaki, IJN;
Warrant Officer Toshimoto Tanaka, IJN.

RECORD OF PROCEEDINGS

of a

MILITARY COMMISSION

convened at

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands,

by order of

Commander Marshalls Gilberts Area



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146473

Finished File

3/10/47 *[Signature]*

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Cincpac File
AL7

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

Serial 2938

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

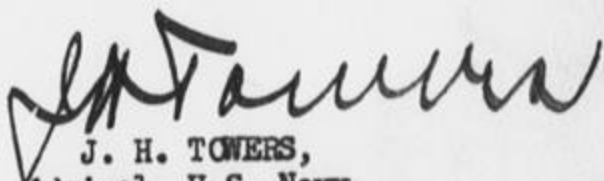
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8 MAR 1946

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

Prior to the execution of the death sentences adjudged in this case the record is, in conformity with section D-14, Naval Courts and Boards, respectfully referred to the Secretary of the Navy.

This record is hereby classified RESTRICTED.


J. H. TOWERS,
Admiral, U.S. Navy,
Commander in Chief,
United States Pacific Fleet
and Pacific Ocean Areas,
and Military Governor of
the Pacific Ocean Areas.

To: Judge Advocate General.

Re: Record of proceedings of Military Commission - case of
Rear Admiral Nisuki Masuda, IJN, et al.

Copy to:
Com MARIANAS
AtCom KWAJALEIN
IsCom GUAM

1198

Cincpac File
A17

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

Serial 2938

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

RESTRICTED

8 MAR 1946

The Military Commission in this case, which included two Army officers as members, was specifically authorized by the Commander in Chief, U. S. Pacific Fleet and Pacific Ocean Areas, to be convened by the Commander Marshalls Gilberts Area. The precept was issued 3 November 1945. The order for trial (charge and specification) was issued 3 December 1945 and a copy thereof was delivered to the accused 4 December 1945.

The facts are summarized in the action of the convening authority. This is a clear case of the murder of three Americans who were prisoners of war in the custody of Japanese naval authorities, which murder was committed by inferior officers in obedience to orders of a superior. The order of the superior which arbitrarily directed the execution of the three Americans was illegal as it was in violation of the provisions of the Geneva Prisoner of War Convention (1929). The command of a superior neither excuses nor justifies an unlawful act. (Clark and Marshall, The Law of Crimes, 4th ed., sec. 71, n. 310; CMO 212-1919, p. 5; CMO 4-1929, p. 19).

The judge advocate introduced in evidence (R.p. 3) a dispatch from the Commander Marshalls Gilberts Area to the Secretary of State and the Secretary of the Navy and to others for information (R. Ex. P). The dispatch names the five accused as "prisoners of war". It is considered that none of the accused attained a prisoner of war status. They were disarmed military personnel who surrendered after 2 September 1945. (See J.C.S. 1328/5 of 10 Sept. 1945 and J.C.S. 1380/9 of 22 Sept. 1945, p. 116 of encl). It is the opinion of the reviewing authority that in no event would any of the accused have a prisoner of war status for the purpose of this trial for a war crime committed prior to being taken into custody.

It is noted that four members of the Commission recommended clemency in the case of defendant, Tadashi Tasaki, ensign, IJN. It is the opinion of the reviewing authority that clemency has in effect already been exercised in Tasaki's case inasmuch as he was sentenced to only ten years imprisonment.

Subject to the foregoing remarks, the proceedings, findings, sentences and action of the convening authority in the foregoing case of Rear Admiral Nisuki Masuda, Imperial Japanese Navy, Lieutenant (jg) Tsugio Yoshimura, Imperial Japanese Navy, Ensign Mamoru Kawachi, Imperial Japanese Navy, Ensign Tadashi Tasaki, Imperial Japanese Navy, and Warrant Officer Tashimoto Tanaka, Imperial Japanese Navy, are approved.

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RESTRICTED

Commander Marshalls Gilberts Area,
19 December 1945.

In the foregoing proceedings it is established that three (3) American fliers on or about February 1944, had been forced to land in the vicinity of Jaluit Atoll, Marshall Islands, and subsequently became unarmed prisoners of war on Enidj Island on which was established the Japanese Naval Garrison Force Headquarters under Command of Rear Admiral Nisuki Masuda, IJN. Approximately one (1) month thereafter, about the hour 2200, and upon orders of Rear Admiral Masuda, the three (3) Americans were taken by truck to a cemetery on the adjoining island of Aineman, secretly shot to death and then cremated. Three (3) Japanese identified as executioners and a fourth identified as custodian of the three (3) Americans and who released them to the executioners, believing the Americans were to be executed, were all convicted of murder. The executioners were sentenced to be hanged. The custodian who released the Americans to the executioners, received a sentence of ten (10) years imprisonment. Rear Admiral Masuda who, it is claimed, ordered the executions, committed suicide prior to the trial.

The accused admitted their part in the execution of the American POW's, but claim as a defense that, as military men of the Japanese Empire, they were acting under orders of superior authority which they were duty bound to obey.

The Military Commission before whom the accused were tried, was authorized to use rules governing the trial of war criminals established by Supreme Commander Allied Powers. These rules provide that action pursuant to an order of the accused's superior or his government, shall not constitute a defense, but may be considered in mitigation of punishment if the Commission determines that justice so requires. Under this rule of law, the contention of the accused was of no avail. They stood convicted on their own testimony.

Being a member of the Military does not absolve one of responsibility for acts which constitute war crimes. A member of the Military is responsible for his acts not alone to his Superior but also to the laws of custom in civilized society. It is essential to the preservation of civilized society that responsibility for crime should not find a shield in the name of War Power and hence remain beyond the reach of judicial review either by civil or Military tribunals.

The accused are enemy-aliens. They do not come before the Military Commission clothed with guarantees and protections secured under the Constitution of the United States and the Bill of Rights. The Military Commission has no mandate to adopt for guidance the accused's conception of responsibility. Their guide is the moral law of society. The accused stand before a tribunal whose function is to determine guilt or innocence of the crime charged.

The accused were informed of the charges preferred against them; they were represented by Counsel; they presented their defense; the issues were clarified and a decision was rendered by a Military Commission.

Subject to the above remarks, the proceedings, findings and sentences in the foregoing case are approved.

W. K. Harrill
William K. Harrill
Rear Admiral, U. S. Navy
Commander Marshalls Gilberts Area.

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Rear Admiral Nisuke Masuda, Imperial Japanese Navy,
et al

Trial by Military Commission

in the

Marshall Islands

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TESTIMONY

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|---|---------------------------|-------------------------|------------|
| Prosecution | | | |
| Nathan G. Finkelstein, Lt.Cdr., USNR | 3 | | |
| Jorgen, Marshallese | 5 | 6 | 7 |
| Riichi Teutsumi, civilian | 7, 10 | 9 | 9 |
| Kenichi Iwanami, Lt.(sg), LJA | 11, 15 | 14, 15 | 15, 16 |
| Isamu Akamatsu, LJA | 16 | 19 | 19 |
| Kumahei Mikura, Sup. Pvt., LJA | 21 | 25, 26 | 26 |
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RESTRICTED

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0004

Area/J-1
Al7-10

COPY

Serial: 8078

3 November 1945

From: Commander Marshalls Gilberts Area.
To : Commodore Ben H. Wyatt, USN, U. S. Naval Air Base, Kwajalein.
Subject: Precept for a Military Commission.

1. Pursuant to authority vested in me by Commander in Chief, U. S. Pacific Fleet and Pacific Ocean Areas restricted dispatch 092305 October, a Military Commission is hereby ordered to convene on board the U. S. Naval Air Base, Kwajalein Island, Kwajalein Atoll at 10 o'clock a.m. on Monday 12 November 1945, or as soon thereafter as practicable, for the trial of such war crime cases as may properly be brought before it.

2. The Military Commission is composed of the following members, any five of whom are empowered to act, vis:

Commodore B. H. Wyatt, USN
Captain C. C. Champion, Jr., USN
Captain H. B. Herty, USN
Captain J. R. Weisser, USN
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN
Lieutenant Colonel Basil P. Cooper, FA
Lieutenant Commander Edward F. O'Brien, USNR and
Lieutenant William P. Mahoney, USNR as Judge Advocate,
either of whom is authorized to act as such.

3. Detachment of an officer from his ship or station does not of itself relieve him from duty as a member or judge advocate of the Military Commission. Specific orders for such relief are necessary.

4. Power of adjournment is inherent in the Commission, and adjourned session may be held at such times and such places as the Commission may determine.

W. K. HARRILL

A true copy. Attest:

John A. Murphy
Lieutenant John A. Murphy, USNR
Judge Advocate

"A"

0005

Area/J-1
P14

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER
MARSHALLS GILBERTS AREA

Serial: 9149

RESTRICTED

3 DEC 1945

From: Commander Marshalls Gilberts Area.
To : Commodore B. H. Wyatt, U. S. Navy, President Military
Commission.

Subject: Appointment of Judge Advocate to Commission.

1. Lieutenant John A. Murphy, U. S. Naval Reserve, is hereby
appointed judge advocate of the military commission of which you are
president convened by my precept of November 12, 1945, vice Lieutenant
Commander E. F. O'Brien, U. S. Naval Reserve.

W. K. Harrill

W. K. HARRILL

"B"

0006

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER
MARSHALLS GILBERTS AREA

Area/00
PL7-2

RESTRICTED

Serial: 9229

6 December 1945.

From: Commander Marshalls Gilberts Area.
To : Commodore B. H. WYATT, U. S. Navy, President,
Military Commission.

Subject: Change in membership of commission.

1. Captain H. B. HERTY, U. S. Navy, is hereby relieved as a member of military commission of which you are president convened by my precept of November 3, 1945.

W. K. HARRILL

Authenticated:

George Murphy,
Flag Secretary.

A True copy. Attest:

John A. Murphy
Lieutenant U.S. Naval Reserve
Judge Advocate

0007

Area/J-1
A17-20

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER
MARSHALLS GILBERTS AREA

Serial: 9230

4 December 1945.

RESTRICTED

From: Commander Marshalls Gilberts Area.
To : Comedore Ben H. Wyatt, USN, U. S. Naval Air Base,
Kwajalein.

Subject: Rules governing the trial of War Criminals.

Reference: (a) ComMarGilsArea Dispatch No. 010736 to CinCPac
dated 1 December 1945.
(b) JAG Washington D. C. Dispatch No. 032038 to
ComMarGilsArea dated 4 December 1945.

1. In accordance with reference (a) and (b), the Military Commission of which you are President, appointed by my precept of November 3, 1945, is hereby authorized and directed to use SCAP RULES governing the trials of war criminals, as a guide, not only for rules of evidence, but also as a guide for substantive law and procedure on all issues arising in the trial of war criminals.

A true copy. Attest:

John A. Murphy
Lieutenant U. S. Naval Reserve
Judge Advocate

"D"

0008

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER
MARSHALLS GILBERTS AREA

Area/00
P13

Serial: 9349
RESTRICTED

7 DEC 1945

From: Commander Marshalls Gilberts Area.
To : Lieutenant John A. Murphy, U. S. Naval Reserve, or
Lieutenant W. P. Mahoney, U. S. Naval Reserve, Judge
Advocates, Military Commission, Marshalls Gilberts Area.

Subject: Authorizing correction in specification.

1. You are hereby authorized and directed to change the charge
and specification preferred by me against

Rear Admiral Nisuki Masuda, Imperial Japanese Navy,
Lieutenant (jg) Tsugio Yoshimura, Imperial Japanese Navy,
Ensign Mamoru Kawachi, Imperial Japanese Navy,
Ensign Tadashi Tasaki, Imperial Japanese Navy, and
Warrant Officer Toshimoto Tanaka, Imperial Japanese Navy

in the following particulars: In the 9th line of the specification to the
Charge delete the word "unlawfully" and substitute in its stead the word
"wilfully".

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

William K. Harrill

William K. Harrill,
Rear Admiral, U. S. Navy,
Commander Marshalls Gilberts Area.

0009

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER
MARSHALLS GILBERTS AREA

Area/01
P13

Serial: 9148

3 DEC 1945

RESTRICTED

From: Commander Marshalls Gilberts Area.
To : Lieutenant John A. Murphy, U.S.N.R., or Lieutenant W. P. Mahoney, U.S.N.R., Judge Advocates, Military Commission, Marshalls Gilberts Area.

Subject: Charge and Specification in the case of:

Rear Admiral Nisuki Masuda, Imperial Japanese Navy,
Lieutenant (jg) Tsugio Yoshimura, Imperial Japanese Navy,
Ensign Mamoru Kawachi, Imperial Japanese Navy,
Ensign Tadashi Tasaki, Imperial Japanese Navy, and
Warrant Officer Toshimoto Tanaka, Imperial Japanese Navy.

1. The above named men will be tried before the Military Commission of which you are Judge Advocate upon the following charge and specification. You will notify the president of the commission accordingly; inform the accused of the date set for their trial, and summon all witnesses, both for the prosecution and for the defense.

CHARGE I

MURDER

SPECIFICATION

In that, Nisuki Masuda, Rear Admiral, IJN, Tsugio Yoshimura, Lieutenant Junior Grade, IJN, Mamoru Kawachi, Ensign, IJN, Tadashi Tasaki, Ensign, IJN, Toshimoto Tanaka, Warrant Officer, IJN, attached to the military installation of the Imperial Japanese Navy at Jaluit Atoll, Marshall Islands, and while so serving at said military installation of the Imperial Japanese Navy at Jaluit Atoll, Marshall Islands, did, on or about March 10, 1944 on the Island of Aineman, Jaluit Atoll, Marshall Islands, at a time when a state of war existed between the United States of America and the Japanese Empire, ~~unlawfully~~ ^{willfully}, feloniously, with malice aforethought without justifiable cause, and without trial or other due process, assault and kill, by shooting and stabbing to death, three American fliers, then and there attached to the Armed Forces of the United States of America, and then and there captured and unarmed prisoners of war in the custody of the said accused, all in violation of the dignity of the United States of America, the International rules of warfare and the moral standards of civilized society.

W. K. Harrill

"F-2"

W. K. HARRILL

米軍大空軍艦隊及太平洋方面司令部
ミッドウェー方面

昭和二十年十一月三日

第一九五 P13

RESTRICTED

第九一四八号

発、ミッドウェー方面司令部

宛、ミッドウェー方面調査係法務官

米軍海軍大尉

同

ジーン・エー・カーン

ダニー・アボニー

貴官ハ軍法會議ニ於テ法務官トシテ左ノ者ニ對スル調査告訴ヲ公判ニ附スベシ

貴官ハ軍法會議、公判、日ニ告訴人被告三通知シ證人ハ皆米軍ノ命ズ

大日本帝國海軍少將

同同同同

由尉
小尉
小尉
曹長

折田 仁助
吉村 次男
河内 守正
田崎 俊元
田中 俊元

告訴

殺害調査書

大日本帝國海軍少將折田仁助、同海軍中尉吉村次男、同海軍小尉河内守正、同海軍小尉田崎正、同海軍兵曹長田中俊元、ミッドウェー群島ヤールト環礁、大日本帝國海軍警備隊ニ配屬サレテ、亞米利加合衆國ト大日本帝國トカ交戦中、昭和十九年(一九四四)三月十日、又ハ、頃、ミッドウェー島ニ於テ米國航空士三名ヲ殺害シ、又ハ、謀謀、更ニ以テ一言、變明モ許サズ、又公判、手鎖モテ、時殺、又ハ、刺殺シ、右ノ行為ハ明ラカニ米國、國威ヲ傷ケ、國際間、戦闘法式、及文明社会、道義ニ違反シ、

W. X. HARRILL

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER
MARSHALLS GILBERTS AREA

Area/00
P13

Serial: 9364

8 DEC 1945

RESTRICTED

From:
To :

Commander Marshalls Gilberts Area.
Lieutenant John A. Murphy, U. S. Naval Reserve, or
Lieutenant W. P. Mahoney, U. S. Naval Reserve, Judge
Advocates, Military Commission, Marshalls Gilberts Area.

Subject: Authorising entry of Nolle Prosequi in case of:

Rear Admiral Nisuki Masuda, Imperial Japanese Navy.

1. You are hereby authorized and directed to enter a nolle
prosequi as to the accused Nisuki Masuda, Rear Admiral, Imperial Japanese
Navy, in the above named case, as to the specification and charge preferred
against him December 3, 1945.

W K Harrill

William K. Harrill,
Rear Admiral, U. S. Navy,
Commander Marshalls Gilberts Area.

"G"

0012

FIRST DAY

RESTRICTED

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

7 December 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant John A. Murphy, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.

Earl G. Brown, Sgt., USMCR, entered with all the accused except
Rear Admiral Nisuki Masuda, IJN, and reported as provost marshal.

The judge advocate introduced Edwin A. Boles, Ylc, USNR, as
reporter.

At the request of the accused, and pursuant to verbal orders
from the convening authority, Lieutenant (jg) F. J. MADRIGAN, USNR
took seat as counsel for the accused together with Lieut. Comdr.
Kozo Hirata, IJN. Lieut. Edward F. Field, USNR, also took seat as
assistant to defense counsel.

The judge advocate read the precept and modifications thereof,
copies prefixed marked "A", "B", and "C".

A directive from ComMarGilaArea, subject: Rules governing the
Trials of War Criminals, was then read by the judge advocate, copy
prefixed marked "D".

Each of the accused stated that he did not object to any member.

The judge advocates, each member of the commission, and the
reporter were duly sworn.

Edward Milner, Marshallese, Larry Watanabe, T/3, AUS, and Tony
Sunamoto, T/3, AUS, were duly sworn as interpreters.

The judge advocate asked if each of the accused had received a
copy of the charges and specification in this case. Each of the
accused stated that he had received a copy of the charge and specifi-
cation preferred against him, in both English and Japanese on
December 4, 1945.

The judge advocate asked if there were any objections to the
charge and specification as preferred.

The accused replied in the affirmative stating that the defense
objects to the inclusion in the specification "moral standards of
civilized society" as improper and non-legal.

The objection was overruled by the commission.

The commission was cleared for discussion of the charges and specification.

The commission was opened.

The commission announced that it found the specification not in due form and technically correct and that convening authority had been requested to authorize substitution of word "wilfully" for the word "unlawfully" in line 9 of the specification.

The judge advocate read a letter from the convening authority, prefixed marked "E", directing changes in the specification. The judge advocate was directed by the commission to correct the original charge and specification and the copy in the hands of the accused in accordance with the directions of the convening authority.

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

Each of the accused replied in the negative.

The commission was cleared.

The commission was opened. All parties to the trial entered and the commission announced that it found the charge and specification in due form and technically correct.

The judge advocate asked if each of the accused were ready for trial.

Defense stated that each of the accused was ready for trial.

No witnesses not otherwise connected with the trial were present.

The defense made a plea to the jurisdiction of the commission, and an argument in support to its plea, a brief of which is appended, marked "K".

The judge advocate replied a brief of which is appended, marked "L".

The judge advocate introduced two dispatches appended, marked "M" and "N".

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

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

The accused replied in the negative.

The judge advocate read the letter containing the charge and specification original prefixed marked "F-A", first in English, then in Japanese by an interpreter, copy prefixed marked "F-B".

Each of the accused was arraigned as follows by the judge advocate:

Q. Lieutenant (jg) Tsugio Yoshimura, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?

A. Not guilty.

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Q. How say you to the charge, guilty or not guilty?
A. Not guilty.

Q. Ensign Mamoru Kawachi, IJN, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?
A. Not guilty.

Q. How say you to the charge, guilty or not guilty?
A. Not guilty.

Q. Ensign Tadashi Tasaki, IJN, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?
A. Not guilty.

Q. How say you to the charge, guilty or not guilty?
A. Not guilty.

Q. Warrant Officer Tashimoto Tanaka, IJN, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?
A. Not guilty.

Q. How say you to the charge, guilty or not guilty?
A. Not guilty.

The commission inquired as to Rear Admiral Nisuki Masuda, IJN, named as a defendant, as to why he was not present and had not been arraigned.

The judge advocate replied as follows:

During the course of the trial if it is proved that Rear Admiral Masuda is deceased by reason of having committed suicide, at that time a letter can be requested from the convening authority asking for a nolle prosequi as to the Admiral. It is felt that until such time as the Admiral is proved deceased that no action should be taken by the court.

The President stated that the court would take cognizance of the fact that Rear Admiral Masuda is not present and proceed with the trial.

The prosecution began.

The judge advocate made an opening statement, a brief of which is appended marked "O".

The judge advocate then offered as Exhibit #3, a dispatch appended marked "P".

There were no objections by the defense to this exhibit.

The exhibit was accepted by the commission.

Lieut. Commander Nathan G. Finkelstein, USNR, a witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank and present station.
A. Nathan G. Finkelstein, Lieutenant Commander, U. S. Naval Reserve, U. S. Navy Air Base, Navy 3234.

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2. Q. Where were you stationed during the month of October 1945?
A. At the same place.
3. Q. During the month of October 1945, what were your duties or assignments?
A. I was legal officer at the Naval Air Base. I had additional duty as war crimes and atrocities investigator for the Marshalls Gilberts Area.
4. Q. As such investigator, did you make an inquiry into the deaths of those three aviators by the names of Gorenson, Barron and Bailey?
A. I did.
5. Q. Did you make a record of investigation as to the death of those three American fliers?
A. I did.
6. Q. I hand you prosecution's exhibit #4 and ask you to state to the commission what it is?
A. This is the record of proceedings of the war crimes investigations conducted at Jaluit, Majuro and Kwajalein Atolls, ordered by the Commander Marshalls Gilberts Area and which was the report and my particular findings as to the investigation.
7. Q. And that record contains the questions and answers directed to individuals whom you used in the investigation of the deaths of these three fliers?
A. Yes, it does.
8. Q. Were some of the statements contained in there made under oath?
A. Yes.
9. Q. Were the statements contained on Page 90 made under oath?
A. Yes, the statement was made under oath.
10. Q. I hand you prosecution's exhibit 5-A and ask you to state what that is?
A. This is a dispatch originated by Atoll Commander, Majuro, in fact which I wrote, to CinCPac/Poa, the substance requests names, ranks and home addresses of three fliers of a TBF which crashed near Jaluit Atoll on or about February 9, 1944. It is a confidential dispatch.
11. Q. I hand you prosecution's exhibit 5-B and ask you what that is?
A. It is a copy of a dispatch from CinCPac/Poa to Atoll Commander, Majuro, in reply to the dispatch previously mentioned, giving the name of the pilot of the TBF.
12. Q. That is in reply to prosecution's exhibit 5-A?
A. That is right.
13. Q. I hand you exhibit 5-C and ask you to state to the commission what that is?
A. It is a dispatch from the CVE-71, Kitkun Bay, action to Atoll Commander, Majuro, giving names of two crew members of the TBF.
14. Q. I note that on exhibits 5-B and 5-C your signature appears attesting these to be a true copy of the original?
A. That is correct.
15. Q. You have compared these to the original dispatches and these are identical copies thereof?
A. Yes.

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The judge advocate offered into evidence prosecutions Exhibits 5-A, 5-B, and 5-C. There being no objection, it was so received and is appended marked 5-A, 5-B, and 5-C.

No objection was made to the introduction of these exhibits as evidence.

16. Q. I hand you again prosecution's exhibit #5-B in evidence. I note the word NASURNK BAY. Can you tell the commission what that is?

A. That word is a garble and the correct name of the ship mentioned by that is the NATOMA BAY.

The accused did not desire to cross-examine this witness.

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 please?
A. Jorgen.

2. Q. Where is your home, Jorgen?
A. Medyai.

3. Q. During the month of February 1944, what were you doing?
A. I was working for the Japanese.

4. Q. Were you on an island called Lebjer during the month of February 1944?
A. Yes, I was there.

5. Q. Did you during February 1944, on the island of Lebjer, see three American fliers?
A. Yes, I saw them.

6. Q. Where did you first see these three American fliers?
A. On Jinabel.

7. Q. After meeting the three fliers on Jinabel Island, what did you do?
A. I met them and went back with them.

8. Q. Where did you go with the fliers?
A. We went to Kiur Island.

9. Q. Where did you go then?
A. From Kiur we went back to Lebjer.

10. Q. What time, or what day did you get back to Lebjer?
A. We went back on the same day.

11. Q. What day of the week was that?
A. It was a Sunday.

12. Q. Was that during the early part of February 1944?
A. About the middle of February 1944.

13. Q. Was anyone with you while you were with these three American fliers from the time you met them on Jinabel?
A. Yes, there was another man.

14. Q. What was his name?
A. His name is Pius.

15. Q. What did you do when you arrived on Lebjer Island that Sunday afternoon?

A. I collected some nuts; after this we were both ready for going to bed.

16. Q. Where did you take the fliers when you arrived at Lebjer?

A. We went to a large house and stayed there.

17. Q. After you took the American fliers to this house on Sunday afternoon, did any Japanese later come to that house?

A. During the night we were asleep; some Japanese came.

18. Q. Tell the court what happened after the Japanese came to the house?

A. We were awake by shots.

19. Q. Then what happened?

A. Then I jumped out of the house and I said there is no danger.

20. Q. Who did you say that to?

A. I said those words to the Japanese.

21. Q. Continue now and tell the court what else happened there?

A. I went back into the house and came out with the American fliers. Then the fliers came out with their hands raised. They took the pistols from the fliers, then made their hands fast and knocked the head of one of them. Then they took them away to Jinabel and from Jinabel took them in a boat to Emidj.

22. Q. Do you know who the Japanese was that struck the flier on the head?

A. It was dark and I couldn't recognize his face.

23. Q. I hand you now prosecution's exhibit #6 and ask you if you have ever seen it before?

A. Yes, I saw it on the Sunday afternoon on the hand of one of the fliers at Lebjer.

Exhibit #6, a gold bracelet, was offered in evidence by the judge advocate. There was no objection by the defense. The exhibit was accepted in evidence and is appended marked "exhibit 6".

The judge advocate stated: I would like the record to show the prosecution's exhibit #6 carries an inscription thereon as follows:

301165
GORANSON, R. I.
700-79-31
301165

Cross-examined by the defense:

24. Q. Have you ever seen any of these defendants before?

A. Witness pointed to Warrant Officer Tanaka.

25. Q. Were any of these men present at the capture of these fliers?

A. I can't say because it was dark. I could not recognize anyone.

26. Q. Then, insofar as you know, you can't say that these men were at the scene of the capture?

The judge advocate objected to the question on the grounds that it was argumentative; that the witness had already stated it was too dark to see. The judge advocate withdrew his objection.

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The question was repeated.

A. I cannot say because it was quite dark and I could not recognize anyone.

27. Q. How did you recognize that bracelet which was just shown to you as being worn on the hand of one of the fliers?

A. I saw it on one of the fliers hands and next morning it was found where they took the fliers prisoners.

28. Q. How do you remember that that was the bracelet you saw on the hand of the flier on the day before, or at the time you saw it?

A. The next morning the bracelet was laying there where they hit the Americans and took them prisoners and because the American had been wearing that I knew that belonged to the American flier.

Examined by the commission:

29. Q. You picked up the bracelet from the ground?

A. A man called Jibke picked it up.

30. Q. Is that man Jibke a Marshallese or a Japanese?

A. He is a Marshallese.

31. Q. Has Jibke had this bracelet in his possession ever since?

A. Yes.

32. Q. When and under what conditions did you see or recognize the defendant you identified, Tanaka?

A. I knew him from working with him.

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 retired.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and occupation?

A. My name is TSUTSUMI, Riichi; I am a civilian attached to the Navy and I am a cook.

2. Q. Where were you located during February 1944?

A. I was on the island called Bogaraborapu.

3. Q. Did you hear of three American fliers coming ashore at Jaluit at that time?

A. Yes, I did.

4. Q. Who told you about the American fliers?

A. Some native told me.

5. Q. Where were you when you got this news?

A. I was living on Bogaraborapu.

6. Q. What were you told about the fliers?

A. The natives told me that American fliers landed on my island.

7. Q. What island was that?

A. I do not know.

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8. Q. Then what did you do?
A. Then my work was finished, so that there was a ship named KAITSU MARU docked on my island, so I went aboard with three other crew members so we proceeded to the island.
9. Q. Who were the men accompanying you?
A. Agaswara, Shinada, and myself, making a total of three.
10. Q. At what time of the day did you leave on this trip?
A. I believe it was about eight o'clock in the evening, Japan time, when we left.
11. Q. What date was that?
A. I don't remember.
12. Q. What was the purpose of this trip?
A. We went to capture the American fliers.
13. Q. Where did you first see the American fliers?
A. I saw them on the island where the American fliers were sleeping.
14. Q. What is the name of this island?
A. I do not know.
15. Q. Was the name Lebjer?
A. I do not know definitely.
16. Q. How long did this journey take?
A. Approximately three hours.
17. Q. Describe just what you did after you arrived on the island?
A. We did not dock at the island where the American fliers were sleeping but we went on to the next island to the one where the fliers were sleeping, then went back on foot to the island where the American fliers were sleeping. Then we stopped about 50 meters in front of the house where the American fliers were sleeping and through a native we told the Americans to give up their arms and the Americans did not comply to our request. And Agasawara had a rifle with him so he pointed the rifle at the roof and fired about five or six shots. Then I borrowed the rifle and I fired two more shots. Then the three American fliers came out with their hands raised with an interval of about three meters between them. Then I shouldered my rifle and I went to the first flier and took his pistol and knife. Then the second flier took the pistol from the holster at his side and pointed the pistol toward me and came toward me. Then I dropped the pistol of the first flier and turn over the flier to Shinada who was in back of me and hit the second flier with the butt of my rifle. Before I hit the flier with the butt of my rifle I poked him with my hand and then I used the rifle at him. Then he dropped his pistol. Then Agasawara started to pick up the pistol. Then the flier tried to pick up his own pistol and Agasawara and the flier had a tussle. Then I proceeded to the third flier and took his pistol and knife.
18. Q. Then what happened?
A. Then we collected all their arms and tied their hands in front of them. Then we took the prisoners and at the same time collected their personal gear and brought them aboard the ship.
19. Q. Then where did you take the fliers?
A. Then we went to the island which I came from, Bogaraborapu.
20. Q. That is the island where you were stationed?
A. Yes.

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21. Q. Proceed from there?
A. Then we gave them some food and boarded ship again.
22. Q. The same ship?
A. Yes. Then we went towards Emdj.
23. Q. What time did you leave for Emdj?
A. It was about two or three o'clock in the morning.
24. Q. When did you arrive on Emdj and describe what happened when you reached Emdj?
A. We arrived on the pier at Emdj at about eight o'clock in the morning. There was a guard at the docks so we reported to the guard that we had the prisoners.
25. Q. Then what did the guard do?
A. Then the guard went to the telephone and telephoned someone.
26. Q. Then what happened?
A. Then after a while a truck arrived.
27. Q. Did you recognize either the guard or the persons who came for the fliers?
A. No, I did not recognize them.
28. Q. How many fliers were there?
A. Three.
29. Q. Do you know their names?
A. I do not know.
30. Q. Who ordered you to capture these American fliers?
A. The skipper of the KAITSU MARU - his name is Matsumoto.
31. Q. Are you in the Navy?
A. I am attached to the Navy.
32. Q. Why did you bring the fliers to Emdj?
A. That is the only place we can take them to.
33. Q. But why to Emdj?
A. Because Naval Garrison Force Headquarters is on Emdj.
34. Q. Did you ever see the fliers after you turned them over?
A. No, I did not.
35. Q. That was the last time you saw them?
A. Yes.
36. Q. I indicate to you the defendants in this case and ask you if you recognize any of them?
A. I know their names.
37. Q. Did you know them on Emdj?
A. No, I did not know them on Emdj but I knew them when we came to Kwajalein.

Examined by the defense:

38. Q. Were any of these defendants present here today at or have any connection with the fliers about whom you have spoken?
A. No, they had no connection.

Examined by the commission:

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39. Q. Did the fliers have their hands over their heads when you struck them?

A. He was pointing his pistol at me so I hit him.

40. Q. Upon arrival at Emidj, did you give up the prisoners at the dock?

A. I turned over the fliers to the truck - the person who came in the truck.

41. Q. Did you ever see them again?

A. No, I did not.

42. Q. Not ever?

A. Not ever.

43. Q. Why were you, as a civilian, in charge of the capture of these prisoners?

A. It was because I had the rifle at first but I was not in charge, I just happened to have the rifle.

44. Q. Who was in charge?

A. Nobody was in charge when we captured them. We were all of the same rank but we got orders from the captain of the ship, Matsumoto. But we were all of the same rank and nobody was in charge when we captured them.

45. Q. How many were there?

A. Three of us.

46. Q. Were the other two civilians?

A. Yes, civilians attached same as me.

47. Q. Where did you get the rifle?

A. It belonged to Agasawara, one of the civilians.

48. Q. How were the civilians dressed?

The judge advocate objected to these question on the ground they were immaterial and irrelevant.

The commission replied.

The commission announced that the objection was sustained.

Examined by the judge advocate:

49. Q. What was the approximate date you picked these fliers up and brought them to Emidj?

A. In 1944, about the middle of February.

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

The witness said that he had nothing further to state.

The witness was duly warned and retired.

The commission then at 11:50 took a recess until 1:30 p.m., at which time it reconvened.

Present:

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

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No witness not otherwise connected with the trial were present.

The judge advocate introduced Robert W. Barrett, SKV1/c, as an additional reporter. He was duly sworn.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank, and your duties.
A. I am Lt. (sg) Kenichi Iwanami, in the Japanese Navy, attached to Headquarters.
2. Q. Were you stationed on Jaluit Atoll in January, February, and March of 1944?
A. Yes.
3. Q. If you recognize any of the indicated defendants, state as to whom?
A. This is Lt. (jg) Yoshimura.
A. This is Ensign Kawachi.
A. This is Ensign Tasaki.
A. This is Warrant Officer Tanaka.
4. Q. Where did you know these men?
A. At Jaluit.
5. Q. Early in 1944, did you see three American fliers on Emidj Island?
A. Yes.
6. Q. What was the occasion for your seeing them?
A. I was interrogating the three fliers.
7. Q. Where were the fliers held?
A. They were guarded by the Navy.
8. Q. Where on Emidj Island were the fliers held?
A. It was at Air Force Headquarters.
9. Q. How many times did you interrogate the fliers?
A. I interrogated the fliers about six or seven times.
10. Q. When was the first time you interrogated the flier?
A. I don't remember the actual date, but I remember the date they arrived.
11. Q. About what date?
A. It was about the 10th of February.
12. Q. What year?
A. 1944.
13. Q. Did you use an interpreter during these interrogations?
A. Yes.
14. Q. Who was the interpreter?
A. Master Sgt. Akamatsu.
15. Q. In the course of the interrogations, who was present besides you and Master Sgt. Akamatsu?
A. No one else.

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16. Q. But you and the fliers?
A. Yes.
17. Q. Did the fliers tell you their names?
A. I heard them.
18. Q. What names did you hear from the flier?
A. I remember only one.
19. Q. What was the name and rank of that one flier?
A. He was an Ensign and his name was Goranson.
20. Q. Did the fliers tell you where they had come from?
A. Yes.
21. Q. Where did they say?
A. Majuro.
22. Q. Where at in Majuro?
A. They were based upon an aircraft carrier, and on a reconnaissance flight they crashed into the sea and drifted to Jaluit.
23. Q. Did they tell you the name or number of that carrier?
A. Yes.
24. Q. Would you tell what they told you?
A. I don't remember accurately, but it was CVL 61 or 62, and I don't know whether it was the carrier he was based on, but he mentioned the Natoma Bay.
25. Q. Did he say the Natoma Bay was the carrier he flew off from?
A. Yes, he did. I don't remember if he came from the Natoma Bay, but he mentioned both the 62 and Natoma Bay.
26. Q. What kind of an aircraft did the fliers say they had crashed in?
A. TBD.
27. Q. That wasn't TBF or TBM, was it?
A. TBD.
28. Q. You said that one of the fliers you interrogated was an Ensign. Was one of the other two officers or enlisted men?
A. I believe the other two were non-commissioned officers.
29. Q. How many interrogations did you say you were with these fliers on?
A. Six or seven times.
30. Q. About how long did these interrogations last?
A. At the longest, one hour and a half.
31. Q. What was the general line of your questioning?
A. At first, we asked his name, rank, and what outfit he was attached to, and details concerning tactics and the method of battle of the American forces. That is the general trend of questions.
32. Q. Were these questions answered?
A. Yes.
33. Q. Were these fliers punished in any way by the Japanese?
A. I heard they were executed.
34. Q. How long after they landed were they executed?
A. Approximately one month.

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35. Q. Were the fliers given a trial, to your knowledge, before they were executed?

A. That, I do not know.

36. Q. At whose direction did you question these fliers?

A. By the Atoll Commander's orders.

37. Q. That was the Admiral?

A. Yes, Rear Admiral.

38. Q. To whom did you report the results of your investigation?

A. I reported it to the Admiral.

39. Q. What was the general view of the fliers in point of view of health during the investigation?

A. They were normal.

40. Q. Do you know what officer had charge of the guards?

A. I remember the officer in charge of the guards was Lt. Tanaka.

41. Q. Was that Warrant Officer Tanaka, the defendant in this case?

A. He was a different person.

42. Q. Did he have an assistant?

A. The assistant to the officer in charge of the guards was Ensign Tasaki.

43. Q. Was that Ensign Tasaki, the defendant in this case?

A. Yes.

44. Q. You say that you heard these fliers were executed. What is the basis for your knowledge?

A. When I went to take a report to the Admiral, at the end of the report the Admiral made to the 4th Fleet, stationed at Truk, he noted on the report that the American fliers were killed in an air raid.

45. Q. What report were you making to the Admiral at this time?

A. The report I was making was a battle report to the Admiral. Whenever there is an action or battle going, we make a report to the 4th Fleet and the Admiral made this note at the end of the note.

46. Q. Who was making the report, you or the Admiral?

A. The main points were always written by the Admiral on the blackboard and I copied this and entered on the dispatch and sent it on.

47. Q. What was the date you saw this on the report to Truk?

A. I don't remember.

48. Q. You stated that you heard the fliers were executed. Where did you hear this?

A. In the Command Post.

49. Q. And when?

A. I don't remember the date.

50. Q. What was the date with relationship to the execution?

A. It was on the following day, or two or three days later.

51. Q. Was that time when you heard about the execution before or after you had seen the report to Truk?

A. It was before the Admiral made the report to Truk that I heard about the execution.

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52. Q. Who told you about the execution of the American fliers?
A. The Admiral.

53. Q. At the Command Post?
A. Yes.

54. Q. Who did you hear executed the fliers?
A. At that time, I did not hear.

55. Q. Didn't the Admiral tell you who had done the execution?
A. No.

56. Q. During those interrogations, were the prisoners armed?
A. They were not armed.

57. Q. Did you learn the names of the other two fliers?
A. I heard them, but I don't remember.

58. Q. If I told you the following names, would that recall any names?

59. Q. Baron?
A. No.

60. Q. Bailey?
A. No.

61. Q. Have you ever heard of a trial being accorded an American flier on Jaluit?
A. I did not hear anything like that.

The accused objected to the question on the ground that it was hearsay.

The commission announced that the objection was not sustained.

Cross-examined by the accused:

62. Q. When the Admiral told you that the American fliers had been executed, tell us the circumstances under which he made that statement?
A. Every day, when we have action, we send a battle report to the 4th Fleet at Truk. The report always has the number of men, casualties, food situation, and all the minor details and everything that concerns the battle. Then I consolidate all the details and information, and although I don't remember the actual date, I brought it to the Admiral. At that time, the Admiral said we executed the three fliers and said let us put it on the report and he himself made the note on the report.

63. Q. Did the Admiral give any reason to you for the execution of these fliers?
A. No.

64. Q. Did he say anything further about the execution of these fliers?
A. No.

65. Q. Could an execution of anybody on that atoll have been carried out without an order from the Admiral?
A. I believe that it could not without the Admiral's orders.

66. Q. As far as you know, could a trial have been given to these fliers?
A. I did not hear whether or not they had a trial or not.

67. Q. Well, could a trial have taken place without your knowledge?
A. Yes.

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68. Q. Did the Admiral tell you who had executed these fliers?
A. No.

Examined by the commission:

69. Q. In what capacity were you attached to Jaluit Atoll?
A. My main duty was to take charge of all the documents dealing with the battle reports and daily record.

70. Q. In that case, had the Admiral ordered a trial, you would, no doubt, have known of it, would you not?
A. Even if they had such a gathering, it is usual that we do not attend. Whenever they have such gatherings, all squad leaders and above attend.

71. Q. If there had been any orders emanating from headquarters, they would have been issued by the Admiral, you would have known it, being in charge of the records, would you not?
A. There would be occasions when I would not know about it.

72. Q. You stated that the Admiral told you they had executed the fliers?
A. Yes.

73. Q. You also stated that the Admiral told you to make a note on the battle report that the fliers had been killed in the bombing raid?
A. Yes.

74. Q. Why did the Admiral make a false report in this case, if you know?
A. I don't know.

75. Q. Did you make any inquiry of the Admiral at that time about that matter?
A. No, I did not ask any questions.

76. Q. Did you see any other official messages, any referring to the fliers?
A. No.

Reexamined by the judge advocate:

77. Q. Did you ever make a report that a trial was held for the American fliers?
A. I did not.

78. Q. Did you ever see any such report being made by the Admiral?
A. No.

Recross-examined by the accused:

79. Q. Would you be the one to make such a report?
A. I would not make such a report. The reports I am concerned with are daily battle records.

80. Q. That is what we are trying to find out, what was your actual position there?
A. Attached to headquarters.

81. Q. Were you the Admiral's aide, or in his confidence?
A. No. Even if I am attached to headquarters, I have lots of duties.

82. Q. Tell us your exact title, if there was such.
A. I am attached to the 1st Platoon, of the 62nd Naval Garrison Forces.

RECORDED

Examined by the commission:

83. Q. Did you keep a daily log?
A. Yes.
84. Q. What entries were made concerning the American prisoners?
A. I do not remember the exact words, but I remember making a note that they were killed in an air raid.
85. Q. What other entries before that entry about being killed in an air raid?
A. I noted the arrival of the American fliers, and about interrogation, and the interrogation report, and that is about all.
86. Q. Anything about a trial?
A. No.
87. Q. At that time, did you keep a personal diary?
A. No.
88. Q. Since there was no entry made pertaining to a trial, is it not reasonable that no trial was actually held?
A. I believe there was no trial.
89. Q. So far as you know, then no trial was held?
A. I did not hear anything about a trial.
90. Q. Did the Admiral issue orders through you?
A. What orders?
91. Q. Any orders?
A. No, he did not.
92. Q. Who did he issue the orders for the execution through?
A. I don't know.

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.
A. Isamu Akamatsu.
2. Q. Were you attached to the Japanese Armed Forces during the months of January, February, and March, 1944?
A. Yes.
3. Q. Where were you stationed?
A. I was in the North Sector in Jaluit.
4. Q. Navy or Army?
A. Army.
5. Q. What were your duties during the months of February and March, 1944?
A. I was Liaison Officer, between the Platoon and Company.
6. Q. Did you perform such duties as interpreting during the months of February and March, 1944?
A. Yes.

7. Q. Directing your attention to the accused, state to the court whether or not you recognize any of them and if so, please identify them.

A. This is Warrant Officer Tanaka.

A. This is Ensign Tasaki.

A. This is Lt. Yoshimura.

A. This is Ensign Kawachi.

8. Q. Was Warrant Officer Tanaka on Jaluit Atoll or Emdj Island during the months of January, February, and March, 1944?

A. Yes.

9. Q. Do you know what his duties on Emdj Island at that time were?

A. He was Paymaster.

10. Q. What unit was he attached to?

A. He was attached to 62nd Naval Garrison Unit.

11. Q. As to the accused, Ensign Tasaki, can you state whether he was on Emdj Island during the months of February and March, 1944?

A. I don't know about it.

12. Q. Did you see Ensign Tasaki on Emdj Island during the months of February and March, 1944?

A. I do not remember.

13. Q. As to the defendant, Ensign Kawachi, was he on Emdj Island during February and March, 1944?

A. I do not know.

14. Q. As to Lt. Yoshimura, did you see him on Emdj Island during the months of February and March, 1944?

A. I do not know.

15. Q. Where have you seen Lt. Yoshimura before?

A. I did not see him.

16. Q. You have never seen Lt. Yoshimura before today in court?

A. When I came here is when I saw him.

17. Q. During February or March, 1944, did you see three American fliers on the island of Emdj?

A. Yes.

18. Q. When was the first time you first saw the three American fliers on Emdj?

A. It was at the beginning of February, 1944.

19. Q. Did you ever talk to the American fliers?

A. Yes.

20. Q. Do you know how soon you talked to the American fliers after they came to Emdj?

A. I think it was the day the three American fliers came to Emdj.

21. Q. What was the purpose of your conversation or talking with the American fliers?

A. When the officer interrogated them, I acted as an interpreter.

22. Q. How many times did you serve as interpreter during the interrogation of the fliers?

A. It was several times.

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23. Q. Who interrogated the fliers the first time they arrived at Emidj?
A. That was Lt. Iwanami.
24. Q. Who else interrogated the fliers?
A. Major Furuki did too.
25. Q. How many times did you act as interpreter for Lt. Iwanami when he interrogated the fliers?
A. I think it was 5 or 6 times.
26. Q. How many times did you interpret for Major Furuki when he interrogated the fliers?
A. It was two times.
27. Q. During any of the times you acted as interpreted, were any of the fliers armed?
A. No.
28. Q. During your interrogation of the fliers, were they under guard?
A. Yes.
29. Q. What was the general physical condition of the fliers during the period you acted as interpreter during the interrogation?
A. One of the fliers was slightly wounded in the head. The other two were in good condition.
30. Q. Do you know the name, or can you recall the name of any of the American fliers?
A. Yes.
31. Q. What is the name of the flier you remember?
A. It was Ensign Goranson.
32. Q. Do you know, or can you recall the names of either of the other two fliers?
A. I do not know the names of the other two fliers.
33. Q. Were the other two fliers officers or enlisted personnel?
A. They were enlisted men.
34. Q. During the interrogation of the fliers, did they say where they had come from?
A. Yes.
35. Q. State where they said they came from.
A. They said they came from Majuro.
36. Q. Did they say where from in Majuro they came?
A. They said only they came from Majuro.
37. Q. Did the fliers say how they happened to have landed on the Islands there on Jaluit?
A. Yes, they said as follows: When they were flying reconnaissance, the engine of the plane stopped and the plane was forced down to the sea, and so they drifted on rubber boat and they drifted ashore at Jaluit Atoll.
38. Q. What kind of a plane did the fliers say they were flying in?
A. They said it was Torpedo plane.
39. Q. When was the last time you acted as interpreter during the interrogation of the fliers?
A. That was the end of February or the beginning of March, 1944.

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40. Q. What happened to the American fliers after that?
A. I heard after that they were executed.
41. Q. When did you hear they were executed?
A. I heard in about two months after the execution.
42. Q. And from whom did you hear that the fliers were executed?
A. I heard by rumor.
43. Q. Who told you?
A. It was, I think, one of our fellows.
44. Q. What was his name?
A. I don't remember his name.
45. Q. What was the date of the execution?
A. I heard it was around the 10th of March.
46. Q. Who executed the American fliers?
A. I do not know.
47. Q. Did you hear who executed the fliers?

The accused objected to the question on the ground that it was hearsay.

The commission announced that the objection was not sustained.

- A. Yes, I heard.
45. Q. Who did you hear executed the fliers?
A. I heard Warrant Officer Tanaka executed.
46. Q. Anyone else?
A. What I heard was that one of the fellows, among the fellows executing the fliers Tanaka was among the group.
47. Q. Who told you that?
A. I heard by the rumor.
48. Q. Did you hear the names of any of the other executors?
A. I do not know.
49. Q. You mean by that you do not remember?
A. I don't know.
50. Q. Did the American fliers ever have a trial?
A. I don't know.
51. Q. Did you ever hear of the American fliers being tried?
A. I never heard.
52. Q. What was the position of Ensign Tasaki?
A. I don't know.

Cross-examined by the accused:

53. Q. Have you and Lt. Iwanami ever discussed this case prior to coming to trial?
A. I never.

Examined by the commission:

54. Q. How many other people on Jaluit spoke good English like you do?
A. I think half a dozen.

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55. Q. Were their English as good and as fluent as yours?
A. Yes.
56. Q. You were the interpreter at various interrogations?
A. Yes, I acted as interpreter over these three American fliers.
57. Q. You did all the official interpreting for the Americans into Japanese?
A. About these three American fliers, I acted as interpreter.
58. Q. Why were you selected for interpreter, if you know?
A. I do not know the reason.
59. Q. Were other interpreters used at times or did you do all of it?
A. I do not know.
60. Q. When were the American fliers notified they were to be executed?
A. I did not.
61. Q. You did not what?
A. I did not notify.
62. Q. Didn't anybody tell them?
A. I do not know.
63. Q. Did they ever remark to you about their fate?
A. No.
64. Q. In all the interpreting that you did, were they ever threatened?
A. Never.
65. Q. Were they tried?
A. Never.
66. Q. Describe the wound in the head of one of the prisoners.
A. So far as I remember, it was on the right side of the head, slightly wounded, and when I saw him, he was around the head bandaged.
67. Q. What caused the wound?
A. I don't know.
68. Q. What was the method of execution?
A. I don't know.

The witness said he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 3:10 p.m., adjourned until 9:00 a.m. Saturday, 8 December 1945.

RESTRICTED

SECOND DAY

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Saturday, December 8, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant John A. Murphy, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Y1/c, U. S. Naval Reserve, reporter,
Robert W. Barrett, SKV1/c, U. S. Naval Reserve, reporter.
Each of the accused and his counsel.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, your rate and duty station?
A. My name is MIKURA, Kumahei; I am a superior private in the Japanese Army; I am attached to the Sagara Unit.
2. Q. Were you stationed at Jaluit Atoll, Emdj Island in February and March 1944?
A. Yes, I was.
3. Q. What were your duties at Emdj?
A. I was a driver.
4. Q. And where were you attached as a driver?
A. I was attached to the headquarters of the Naval Garrison Force.
5. Q. Who issued you the orders to go out on trips?
A. I was the head of the drivers.
6. Q. What officers issued you orders to make the various trips?
A. The orders came from the Navy Headquarters.
7. Q. Did you ever have occasion to drive some American fliers?
A. Yes, I have.
8. Q. And from whom did the order come to drive the fliers?
A. At that time he was a warrant officer, his name is Kawachi.
9. Q. What was the approximate date you were ordered to drive the American fliers?
A. It was about the middle of March.
10. Q. What year?
A. 1944.
11. Q. What time of the day or night did you receive this order?
A. We were sleeping, so it was about nine o'clock in the night.
12. Q. Did you know at the time you received the orders that you were to drive the American fliers?
A. I did not know then.

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13. Q. Tell us just what happened after you received the order?

A. When I was sleeping a messenger came, saying to drive a car to the front of headquarters, and this is usually the routine in which we were ordered to go to various places, a messenger will come from headquarters telling us to go to such and such a place. When I started the engine I went in front of headquarters and warrant officer Kawachi was already there. I told him that I received a call by messenger to bring a car to headquarters and then Warrant Officer Kawachi told me that he personally went to the motor pool to order this car, and that was the first time I knew that Warrant Officer Kawachi came down personally to get this car.

14. Q. Who else did you see at that visit to Navy Headquarters?

A. When I was talking to Warrant Officer Kawachi, Warrant Officer Yoshimura and Petty Officer Tanaka came.

15. Q. Then what happened?

A. Then Warrant Officer Yoshimura came in the front and sat with me and the other Warrant Officer Kawachi, and Petty Officer Tanaka rode in the back of the truck and I was told to go to the Air Force Headquarters.

16. Q. Were these officers that got on the truck with you armed?

A. I remember that Warrant Officer Kawachi and Warrant Officer Yoshimura had their swords and pistols. And I believe Petty Officer Tanaka just had a pistol.

17. Q. Tell what happened when you got to the Air Force Headquarters?

A. I was told to wait a while here and I waited for about 13 or 15 minutes. Then the three officers went down and went into the Air Force Headquarters. And after I waited about 15 minutes, as I stated before, they came out with three American prisoners.

18. Q. Were the three American prisoners' hands tied as they came out?

A. I was sitting in the driver's seat and I turned my head around and looked back and I definitely remember their hands were tied.

19. Q. Front or back?

A. I believe it was tied in the front.

20. Q. Were they blindfolded?

A. I believe they were not blindfolded.

21. Q. Were they being assisted in walking to the truck?

A. No, they were on their own power.

22. Q. Were the guards accompanying the fliers?

A. No, no guards were there, just the three officers that went to get them.

23. Q. Then what happened?

A. Then the prisoners were loaded on the back of the truck and Warrant Officer Kawachi and Petty Officer Tanaka got on the back of the truck and Warrant Officer Yoshimura rode in the front with me.

24. Q. And then in what direction did you proceed?

A. Then Warrant Officer Yoshimura told me to proceed to the cemetery, so I proceeded to the cemetery.

25. Q. Where is the cemetery located in relation to Emidj Island?

A. Southeast.

26. Q. And how far from Emidj Air Force Headquarters to the cemetery?

A. Approximately five kilos.

27. Q. Do you know the name of the island on which the graveyard is situated?

A. I know that the next island to Emidj is Aineman but I don't know the name of the other.

28. Q. Where is the graveyard, Emidj or Aineman?

A. I think it is Aineman.

29. Q. What happened when you arrived at the graveyard?

A. I was told to stop the truck 100 meters ahead of the graveyard and at that point everybody went off the truck.

30. Q. Who told you to stop the truck?

A. Warrant Officer Yoshimura.

31. Q. Continue.

A. Then when everybody went off Warrant Officer Yoshimura told me to turn the truck around so I would be facing the original direction in which I came.

32. Q. Did he tell you anything else?

A. He told me that "you would hear the sound of firing and there would probably be a CB truck passing later but don't let the CB truck pass until you hear the sound of firing".

33. Q. Did he tell you why the CB truck would come?

A. I heard that they were bringing some equipment for burial.

34. Q. Then what happened? After the executioners and prisoners left the truck?

A. Then I turned the truck around and about 100 meters from the graveyard and while I was waiting for about 15 minutes I heard about five or six shots.

35. Q. About how far would you say you were from where the shots were fired?

A. It is less than 100 meters, I believe.

36. Q. Did you see any activity at this spot?

A. No, I could not see anything because between me and the graveyard there was a lot of jungle and bushes and I couldn't see a thing.

37. Q. About what time was it when you heard the shots?

A. I am not sure but I think about ten o'clock.

38. Q. Ten p.m.?

A. Yes, at night. It is the same time we use on Jaluit.

39. Q. What happened after you heard the shots fired?

A. Immediately after I heard the firing of the shots the construction workers truck arrived. Because I heard the five or six shots, I passed the construction truck without stopping them.

40. Q. Do you mean you let them pass?

A. Yes. Because I heard the sound of the firing.

41. Q. What happened after the truck passed?

A. I stood on the road and I was watching, and usually when a truck goes through the graveyard they go through the rear end and as the truck was attempting to go into the graveyard through the rear end, I saw the three officers come out.

42. Q. By the three officers, do you mean Yoshimura, Kawachi and Tanaka?

A. Yes, they were the ones that came out from the graveyard.

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43. Q. I will indicate to you the four defendants in this case and ask you if you can identify them?

The defense objected on the grounds that the question was not a proper one. The judge advocate withdrew the question.

44. Q. Do you notice those three officers that you are talking about in the graveyard, present in the courtroom?

A. Yes, I can.

45. Q. Would you point them out to the court?

A. (Indicating Tanaka) At that time he was Petty Officer Tanaka; (Indicating Kawachi) He was Warrant Officer Kawachi; (Indicating Yoshimura) He was Warrant Officer Yoshimura.

46. Q. Who is the fourth man?

A. He is a man called Tasaki.

47. Q. What were his duties on the island?

A. That I do not know, because I am in the Army.

48. Q. Are the first three officers you indicated the officers that were on the truck with you that night at the graveyard?

A. Yes.

49. Q. Was Ensign Tasaki on Emdj at this time?

A. Yes, I saw his face a couple of times.

50. Q. Were there any other officers or men present at the spot where you heard the shots, when you heard the shots?

A. No, I was the only one there.

51. Q. Was the execution carried out secretly?

A. Yes.

52. Q. What happened after the three officers returned from the truck?

A. The three officers were talking to the construction workers truck at the entrance to the graveyard.

53. Q. Then what happened?

A. They came back to my truck and they told me to go back to the headquarters of the garrison force.

54. Q. Who gave you the order to go back to headquarters?

A. I do not remember whether it was Warrant Officer Kawachi or Warrant Officer Yoshimura who gave me the order to go back to the Naval Headquarters.

The accused moved that the part of the answer specifying names be stricken because the witness does not remember.

The judge advocate replied.

The commission announced that the objection was overruled.

55. Q. Go back to the point where the burial party met the three officers coming out of the graveyard. Did you hear the conversation that took place at that time?

A. No I could not hear what they were talking about but I could see they were in conversation.

56. Q. On the way back from the graveyard in the truck, did you receive any order from any of the officers in the truck?

A. What kind of order?

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57. Q. Was anything mentioned about divulging what went on that night?

A. No.

58. Q. No officer told you to keep the thing secret?

A. When I reached the Naval Garrison Headquarters and when the officers were about to alight from the truck, Warrant Officer Kawachi and Warrant Officer Yoshimura told me not to talk about this meeting to anybody.

59. Q. Did they tell you just what went on at the graveyard?

A. No.

60. Q. Then what orders did you receive when you got back to headquarters?

A. They told me not to talk about tonight's happenings and they left, so I took the truck back and went to bed.

61. Q. Did you make a report to anyone?

A. No.

62. Q. Did you ever see the American fliers again after that trip?

A. No.

63. Q. When the Japanese officers got back to Headquarters where you left them off, where did they go?

A. The motor pool was on one side of the road and the Naval Garrison Force on the other side and as I left they went in the Naval Garrison Force direction, so I don't know where they went.

Cross-examined by the accused:

64. Q. When you picked up the fliers on your truck, did you know if they were to be executed?

A. When I picked up the fliers at the Air Force Headquarters and when they told me to go to the cemetery, then I thought to myself they were going to be executed.

65. Q. Who told you they were going to be taken to the cemetery?

A. Warrant Officer Yoshimura.

66. Q. What else did he tell you?

A. Nothing else.

67. Q. Was Ensign Tasaki present when you picked up the fliers?

A. No.

68. Q. Did you at any time that night, or in any connection with activities that night, see Ensign Tasaki?

A. You mean that night?

69. Q. That night.

A. No, I did not.

70. Q. Who was in charge of the personnel who picked up the fliers and drove out with you towards your destination?

A. I thought he was Warrant Officer Yoshimura.

71. Q. What made you think that the proceedings were secret?

A. I did not think deeply of the matter but when they told me not to talk about I presumed it was secret.

72. Q. Were you told why you were not to talk about the matter?

A. No.

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~~Examined by~~ the commission:

73. Q. Was there any place in the cemetery area where the three fliers could have been imprisoned or put under guard?

A. There is nothing like that in the cemetery.

74. Q. Did all of the Japanese personnel who proceeded to the cemetery area with the three fliers return to the truck?

A. Yes.

75. Q. Did they bring back any of the American fliers?

A. No.

76. Q. Were you told before the party of Japanese and prisoners left for the graveyard that you could expect to hear firing?

A. He said there will be a sound of firing, so until then do not let any truck pass.

77. Q. Was the CB truck which arrived where your truck was at the time of the firing still in the cemetery when you left to return to headquarters?

A. I do not know whether or not the construction workers truck remained there because after the officers were talking with the construction workers they came back to my truck and went back to Naval Headquarters.

78. Q. Think carefully. Describe to the court all the sounds that you heard in addition to the gunfire?

A. The wind was blowing from the ocean side to the lagoon side. The sound of the rifle fire was very distinct and I do not remember hearing any other sound.

79. Q. No other sound at all?

A. Just the firing of the shots.

80. Q. How close were you to the CB truck?

A. It is about 100 meters, because I was standing where I first stopped the truck and turned around.

81. Q. Were you never closer than 100 meters to the CB truck?

A. I was always by my truck.

82. Q. Did you see what was in the CB truck?

A. I saw lumber piled in back of the truck.

83. Q. Did you see any tools? Shovels, spades, etc.?

A. I did not pay too much close attention. I saw a pile of lumber and some men sitting on it.

84. Q. You testified that the shots were clear and sharp. How many shots were fired?

A. Well, I did not count every shot but I definitely remember five or six.

85. Q. Singly, or in groups?

A. Singly. They were close together.

86. Q. Did Lt. Yoshimura tell you why the CB truck was coming?

A. No, he did not tell me the reason.

Recross-examined by the accused:

87. Q. You have previously stated that you heard the CB truck was coming for a burial?

A. Yes, I said that Warrant Officer Yoshimura told me that there would be a CB truck coming along with equipment for a burial.

88. Q. What kind of shots did you hear that night? Were they rifle or pistol shots?

A. It was a pistol shot because there would be no reason why I should hear rifle shots.

89. Q. Do you know they were pistol shots or were you just guessing at it?

A. There is a difference between a sound of a rifle shot and a pistol shot. In the pistol the sound will be softer.

90. Q. At any time during the events of the evening did you see any sword out of its scabbard?

A. I could not see anything because between me and the cemetery was a lot of bushes and things like that.

91. Q. At any time, from the time you left with the prisoners from the motor pool until you got back, did you see any sword out of its scabbard?

A. No, I did not.

92. Q. When the three defendants who you testified were at the cemetery returned from the cemetery to the truck, was there any mud, blood or other stains on their clothing?

A. I did not pay any particular interest in such details and I didn't think there was anything wrong.

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

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

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

A witness for the prosecution entered and was duly sworn.

1. Q. State your name.

A. Shigeo KATO.

2. Q. Were you attached to the Japanese during the months of February and March, 1944?

A. Yes.

3. Q. Where were you stationed during February and March, 1944?

A. I was at Emidj.

4. Q. Which branch of the service were you attached to?

A. Navy.

5. Q. What were your duties during the months of February and March, 1944?

A. I was in charge of the cement masons.

6. Q. On or about March 10, 1944, did you see three American fliers?

A. No, I did not.

7. Q. On or about March 10, 1944, did you see the bodies of three American fliers?

A. When I went to the cemetery, that is the first time I saw the bodies of the American fliers.

8. Q. And was that on March 10, 1944?

I believe so.

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9. Q. Where was it that you saw the bodies of the three American fliers?

A. At the place where they were executed.

10. Q. And where was that?

A. It was on the lagoon side of the cemetery.

11. Q. And was that cemetery on the island known as Aineman?

A. I do not know the name of the island.

12. Q. Why did you go to the cemetery on the night of March 10, where you found the bodies of the three American fliers?

A. I went to cremate the bodies.

13. Q. How did it happen that you went to the cemetery to cremate the bodies?

A. I received an order to go to the cemetery to cremate.

14. Q. When did you receive this order?

A. I believe it was after eight o'clock at night.

15. Q. Who gave you the order to go to the cemetery?

A. The order came through telephone so I do not know who gave me the order.

16. Q. What did you do after receiving the orders to go to the cemetery?

A. I collected some lumber and called a truck and loaded the lumber on the truck and had four men besides me and went to the cemetery.

17. Q. Who were the men who went with you to the cemetery?

A. Kawabata, Yamada, Ogawa, Sasaki.

18. Q. Where are Kawabata, Ogawa and Sasaki at this time?

A. They died and they are not here.

19. Q. Do you know where Sasaki is at this time?

A. I believe Sasaki went back to Japan.

20. Q. What time did you arrive, you and the four men you have mentioned, at the cemetery?

A. I think it was past ten o'clock

21. Q. Upon arriving at the cemetery, did you see another truck parked near the cemetery?

A. Yes, I did.

22. Q. Did you see anyone in that truck?

A. I did not see anybody.

23. Q. Upon arriving at the cemetery, I want you to now tell the court what you did?

A. I stopped the truck at the entrance to the cemetery. I got out of the truck and was walking towards the cemetery when I met Lieutenant Yoshimura. At that place I heard for the first time that the Americans were executed. Then Lt. Yoshimura told me to take care of the cremating.

24. Q. Take care of the cremating?

A. Yes. Then we went to the scene of the execution and took care of the bodies and went home.

25. Q. Upon arriving at the cemetery gate you say you saw Lieut. Yoshimura?

A. Yes.

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26. Q. Did you have a conversation with Lieut. Yoshimura at that time?

A. Yes.

27. Q. Who else was present at that time?

A. There were two others besides him.

28. Q. What were their names?

A. At that time I did not know who they were.

29. Q. Do you know their names at this time?

A. Yes, I know.

30. Q. What were their names?

A. Ensign Kawachi and Warrant Officer Tanaka.

31. Q. Do you see Ensign Tanaka in the courtroom this morning? If so, point him out to the court.

A. (Witness indicating Ens. Tanaka) This is Tanaka. (Indicated Kawachi) That is Ensign Kawachi.

32. Q. If you see Lieut. Yoshimura in the courtroom point him out?

A. This is Lieutenant Yoshimura.

33. Q. Do you recognize the fourth accused?

A. Yes, he is Ensign Tasaki.

34. Q. Was Ensign Tasaki on Emidj Island on or about March 10, 1944?

A. I believe he was there.

Defense moved that the witness' answer be stricken on the grounds that he either knows or does not know, and that what he believes should not be accepted as an answer.

The judge advocate replied.

The commission ruled that the answer would stand.

35. Q. Did you see Ensign Tasaki on Emidj during the early part of March 1944?

A. I did not see him.

36. Q. State to the court what was said to you at the gate of the cemetery when you met Lieutenant Yoshimura?

A. When I saw Lieutenant Yoshimura, Lieutenant Yoshimura told me that "we have executed Americans so please take care of their bodies for me".

37. Q. Did Lieutenant Yoshimura say anything else to you at that time?

A. I believe at that time he told me to keep this a secret.

38. Q. Did Ensign Kawachi or Warrant Officer Tanaka say anything to you at that time?

A. They did not tell me anything.

39. Q. Did Lieutenant Yoshimura say anything else to you at that time?

A. He did not say anything else.

40. Q. What did you next do after you had talked to Lieutenant Yoshimura?

A. Then I proceeded to the scene of the execution and saw the American fliers' bodies.

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41. Q. How many bodies did you find there?
A. Three.

42. Q. What was the position of the American fliers?
A. The one closest to the lagoon was lying toward the lagoon.

43. Q. Was he face down or face up?
A. I do not remember such points.

44. Q. Where was the next flier and what was his position?
A. The one in the center was lying forward.

45. Q. What was the position of the third flier?
A. The third flier was lying toward the ocean side.

46. Q. Approximately how far apart were these three fliers?
A. One ken.

47. Q. Did you observe any wounds on the fliers?
A. Yes, I did.

48. Q. Describe to the court the wounds you saw upon the fliers?
A. Three of them were all bloody around their heart.

49. Q. Did you observe any other wounds on the fliers?
A. I did not observe anything else.

50. Q. Did you observe any wounds on the foreheads of the fliers?
A. I do not remember clearly

51. Q. Did you observe the nature of the wounds that you have described around the fliers' hearts so that you could be able to determine what caused or made those wounds?
A. I am not positive but I think it was a pistol.

The accused objected to the question on the ground that the witness is not qualified as an expert.

The judge advocate replied.

The commission announced that the objection was not sustained.

52. Q. Can you state whether or not the hands of the fliers were tied at the time you found the bodies there?
A. Yes.

53. Q. Were their hands tied?
A. Yes, they were tied.

54. Q. In front or in back of each of the fliers?
A. I believe it was in front.

55. Q. Were there any bandages or blindfolds on the fliers' eyes?
A. Yes, they were blindfolded.

56. Q. Did you observe any blood on the blindfolds or on the faces of the fliers?
A. I do not remember.

57. Q. Do you recall testifying or being questioned by American officers regarding this night on a previous occasion?
A. Yes, I remember.

58. Q. Do you recall at that time telling the American authorities that the faces of the American fliers were smeared with blood at the time you found them?
A. There was blood on their faces I thought I said a minute ago.

59. Q. Did you observe that night any blood on the faces of the three American fliers?

A. I do not remember that definitely.

60. Q. After you had examined the bodies of the American fliers what did you then next do?

A. Then I told the other four men to help me cremate the bodies and carry the bodies to the crematory, which is about 20 or 30 meters away.

61. Q. At the time you removed the bodies from the point where you found them to the point where you cremated them, were the three Americans dead?

A. Yes, they were dead.

62. Q. What did you do after you got the fliers to the crematorium?

A. Then I lined the bodies up and covered them with wood and set fire to it.

63. Q. At any time that night did you remove any personal effects from the three American fliers?

A. I did not.

64. Q. After you set fire to the crematorium, what did you then do?

A. Then I watched it burning strongly, then I left.

65. Q. Did you and all of your four assistants leave together?

A. Yes, we did.

66. Q. Where did you go?

A. Then I went back to Emidj.

67. Q. What did you do upon arriving back to Emidj?

A. I went to sleep.

68. Q. Did you later that night or the next day return to the crematorium?

A. Yes.

69. Q. When did you return?

A. I went to the crematorium early the following morning to pick up the ashes. Then we buried them where the present grave is located.

70. Q. Where is the present grave located?

A. The present grave is about 200 meters ahead of the crematorium.

71. Q. You placed in that grave, did you, the ashes of the three American fliers?

A. Yes, we picked up the bones and buried them there.

72. Q. Did you at any time after the cremation of the American fliers make a report to anyone that you had cremated the fliers?

A. Then I reported to the headquarters that we made a grave.

73. Q. When did you make this report?

A. I did that in the morning.

74. Q. To whom did you make the report?

A. I reported through a telephone, so I told the telephone operator.

75. Q. What did you tell the telephone operator?

A. The cremating was finished and the ashes were buried.

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76. Q. Was that the Navy or Army that you reported to?
A. To Headquarters, -so it is Navy.

77. Q. After you cremated and buried the bodies, did anyone in the Navy or Army discuss your actions with you?
A. Nobody talked to me.

Cross-examined by the accused:

78. Q. For whom did you ask when you made the phone call to make the report of the cremation?
A. I did not ask for anybody.

79. Q. To whom did you intend to make the report when you called on the phone?
A. I intended to talk to the Corporal of the Guard.

80. Q. Did you ask for the Corporal of the Guard when you contacted the other end of the wire?

A. Because this is a usual routine I just told the man on the telephone that the cremating and the burying was done.

81. Q. Who did you think would finally receive the report?
A. I believe the Corporal of the Guard would receive it.

82. Q. What would the Corporal of the Guard have done with the report after he received it?
A. That I do not know.

Examined by the commission:

83. Q. How were the fliers clothed at the time you found the bodies?
A. I am not sure but I believe the color was the color of my uniform; I believe it was khaki.

84. Q. The witness has stated that these were American fliers. How do you know that?

A. Lieutenant Yoshimura told me. When I asked Lieutenant Yoshimura the first time I knew they were Americans and until then I did not know.

85. Q. Was there more than one wound on any of the bodies of the fliers?

A. I did not notice any others. I did not know because the other four men personally carried the bodies.

* 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 prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name?
A. My name is FURUKI, Hidesaku.

2. Q. Were you attached to the Armed forces on Japan during the month of February and March, 1944?
A. Yes.

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3. Q. Where were you stationed?
A. I was at Jaluit.
4. Q. What was your assignment at Jaluit during February and March, 1944?
A. I was the Battalion Commander of the Second Battalion, the 1st South Seas Detachment.
5. Q. What is your rank?
A. I am a Major in the Imperial Japanese Army.
6. Q. During the month of February 1944, did you see three American fliers on Emidj Island?
A. Yes, I did.
7. Q. When did you first see these three American fliers?
A. I believe it was about 10 February.
8. Q. Where did you see the American fliers for the first time?
A. At the Receiving Station of the Base.
9. Q. Where is the Receiving Station of the Base located, in relation to the pier where the American fliers came ashore?
A. It is about 200 meters away.
10. Q. What was the occasion for your first visit with the American fliers?
A. I saw them when I interrogated the three fliers.
11. Q. Who was present when you interrogated the three fliers?
A. Interpreter Sgt. Major Akamatsu.
12. Q. How many times did you interrogate the American fliers?
A. Twice.
13. Q. During your interrogation of the American fliers, did you learn the names of any of the fliers?
A. Yes, I heard their names.
14. Q. What was the name of the fliers?
A. I forgot the name.
15. Q. Do you recall whether or not any of the fliers was an officer?
A. One of them was an officer.
16. Q. What were the other two fliers?
A. The other two were either non-commissioned officers or enlisted men.
17. Q. Did you learn through the interrogation of these fliers where they came from?
A. I remember they came from an aircraft carrier at Majuro.
18. Q. Do you remember the name of the aircraft carrier?
A. I have forgotten.
19. Q. Did the fliers tell you how they happened to come onto the island of Emidj?
A. They had engine trouble and they were downed at sea and they drifted to Emidj.
20. Q. What was the last date on which you interrogated the fliers?
A. It was the following day after the first day I interrogated them.

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21. Q. Do you know what happened later to these American fliers?
A. They were executed.
22. Q. How did you learn that they were executed?
A. I heard they were executed by rumor and I went to confirm this rumor by asking Admiral Masuda.
23. Q. When did you talk to Admiral Masuda?
A. Several days after the execution.
24. Q. What did Admiral Masuda tell you?
A. He said that I executed them without consultation you.
25. Q. Did he say why he executed them without consulting you?
A. He did not say anything like that.
26. Q. Did he say why he ordered the fliers executed?
A. He also did not say anything like that.
27. Q. Did Admiral Masuda tell you at that time who executed the fliers?
A. He did not.
28. Q. Major, are you acquainted with the accused in this case, Lieutenant Yoshimura?
A. I know him.
29. Q. Will you point him out if you see him in the courtroom?
A. The witness pointed to Lieutenant Yoshimura.
30. Q. Are you acquainted with Ensign Kawachi?
A. Yes, I know him.
31. Q. Will you point him out to the court?
A. The witness pointed to Ensign Kawachi.
32. Q. Are you acquainted with Ensign Tasaki?
A. Yes.
33. Q. Will you point him out to the court?
A. The witness pointed to Ensign Tasaki.
34. Q. Are you acquainted with Warrant Officer Tanaka?
A. Yes.
35. Q. If you see him in the courtroom, point him out.
A. This is Warrant Officer Tanaka.
36. Q. What was Lieutenant Yoshimura's assignment on Emidj Island?
A. He was platoon commander of a machine gun company.
37. Q. Was Lieutenant Yoshimura attached to the Imperial Japanese Navy during the month of March 1944?
A. Yes.
38. Q. Was Ensign Kawachi attached to the Imperial Japanese Navy during March 1944?
A. Yes.
39. Q. And what was his assignment?
A. He was the head of the engineering and motor pool.
40. Q. Was Ensign Tasaki attached to the Imperial Japanese Navy during March 1944?
A. Yes.

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41. Q. And what was his assignment?

A. He was the non-commissioned officer as paymaster. I don't know his definite duty.

42. Q. Are you now speaking of Tasaki?

A. I am talking about Tanaka.

43. Q. Was Ensign Tasaki attached to the Imperial Japanese Navy during the months of February, March 1944?

A. Yes.

44. Q. What were his assignments?

A. I believe he was the assistant to the Officer-in-charge of the guards and also the head of the special guns. He was commanding officer of a special unit and was assistant to the chief of guards.

45. Q. As assistant to the chief of guards, Tasaki was responsible, was he not, for the prisoners?

A. As assistant to the chief of guards he was the head of the guards and I heard that he had ordered to make sure the prisoners did not make an escape.

Accused moved that the answer be stricken as it was not responsive to the question.

The commission denied the motion and the answer was permitted to stand.

46. Q. Was Warrant Officer Tanaka attached to the Imperial Japanese Navy during the months of February and March 1944?

A. Yes.

47. Q. What was Warrant Officer Tanaka's assignment during that time?

A. I knew he was a non-commissioned officer in the paymaster but I do not know what his definite duties were.

48. Q. Major, you worked very closely with Admiral Masuda, did you not?

A. Yes.

49. Q. What were your particular duties on the island of Emidj during February and March 1944?

A. I was the highest ranking officer of the Army on the Island. I was ordered by Admiral Masuda to take charge of plans in case of American invasion, and training, and the defensive position for such an invasion, and that is all.

50. Q. During the early part of October 1945, were you present at a meeting during which the subject of the execution of the American fliers was discussed?

A. Yes, I was.

51. Q. Where did this meeting take place?

A. It was the mess hall of the Navy Garrison Force Headquarters.

52. Q. And what date?

A. I do not remember the date.

53. Q. Was it on or about October 5, 1945?

A. The meeting was held on October 5.

54. Q. Who was present at this meeting?

A. Admiral Masuda; Lt. Cdr. Shintome; Lt. Cdr. Suzuki, Doctor; Lt. Cdr. Nakamura, paymaster; and Lieutenant Ninui, paymaster, and myself, and the defendant Lieutenant Yoshimura and Ensign Kawachi and Warrant Officer Tanaka.

55. Q. At this meeting what was said by the Admiral regarding the execution of the three American fliers?

A. He said that we must report the truth of the execution.

56. Q. What else, if anything, did the Admiral say regarding the execution?

A. He was asking the defendants here some minute question but I do not remember.

57. Q. Prior to that meeting, had you, Major, been interrogated by any American officers regarding the matter of the death of these three American fliers?

A. Yes, I have.

58. Q. At those interrogations what did you tell the American authorities happened to the three American fliers?

A. I answered them by saying the three American fliers were killed in an air raid at Emidj.

59. Q. Was that a true statement?

A. No, it was not.

60. Q. Were you ever present when Admiral Masuda was interrogated by American authorities?

A. Yes, I was.

61. Q. Did you ever hear what Admiral Masuda told American authorities had happened to the American fliers?

A. Yes, I heard.

62. Q. What did he tell the American authorities?

A. He answered saying that the three American fliers were killed in an air raid.

63. Q. Major, when you told the American authorities previous to this meeting that the American fliers were killed in an air raid, did you know at that time that your statement was false?

A. Yes, I knew.

64. Q. Why did you give the American authorities this false report?

A. The AtCom ordered us to give the story of how the American fliers were killed in an air raid.

65. Q. How did you know that was a false statement?

A. It was because I confirmed it when the American fliers were executed and several days after their execution I confirmed it by asking the Admiral about the rumor that they had been executed.

66. Q. And what did the Admiral tell you at that time?

A. He said they were executed.

67. Q. And it was after that time that you talked to the American authorities, is that correct?

A. Yes.

68. Q. Major, I hand you prosecution's exhibit #7 and ask you if you have ever seen that before?

A. Yes, I saw it before.

69. Q. Where did you see this document before?

A. I saw it at Emidj.

70. Q. Where at Emidj?

A. I saw it in the room where Admiral Masuda committed suicide.

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71. Q. Prior to that time had you seen this document?
A. I have heard the contents of this before.
72. Q. Where?
A. At the mess hall.
73. Q. When did you hear the contents of this document?
A. It was the morning when he committed suicide.
74. Q. Was that the same meeting you referred to before, held October 5, 1945?
A. Yes.
75. Q. From whom did you hear the contents of this document?
A. Admiral Masuda personally read it.
76. Q. To whom did Admiral Masuda read this document? That is prosecution's exhibit #7?
A. He read it to the persons who were present at the meeting which I mentioned before.
77. Q. I hand you now, Major, prosecution's exhibit #8, and ask you if you have ever seen that before?
A. Yes.
78. Q. And where have you seen this prosecution's exhibit #8 before?
A. I saw it in the Admiral's room after he had committed suicide.
79. Q. On what date was this?
A. It was October 5 of this year.
80. Q. Describe to the court the conditions under which you found and saw prosecution's exhibit #8.
A. Admiral Masuda committed suicide sitting on his seat facing a desk with a pistol. At that time this was on the desk.
81. Q. Whereabouts was it that the Admiral committed suicide?
A. It was in the Admiral's personal room, his own room.
82. Q. Was that on Emidj Island?
A. Yes.
83. Q. Who was present in that room when you found and looked at this prosecution's exhibit #8?
A. Admiral Masuda's orderly; Lt. Cdr. Shintome; Lt. Cdr. Suzuki.
84. Q. Was Admiral Masuda dead at the time you arrived?
A. He was still breathing.
85. Q. Did Admiral Masuda say anything to you at that time?
A. No, he could not say anything.
86. Q. How did Admiral Masuda commit suicide?
A. He committed suicide by the pistol.
87. Q. Did you hear the pistol shot?
A. I did not.
88. Q. Do you know how long it was after Admiral Masuda shot himself until you got to where he was?
A. I believe it was about two minutes later.
89. Q. I hand you prosecution's exhibit #8 again. Can you state whether or not the writing appearing on the last six pages thereof is the writing of Admiral Masuda?
A. I am positive that Admiral Masuda wrote this.

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The commission objected to this questioning because it had not been shown that Major Furuki had ever seen Admiral's handwriting or signature and may not be able to identify same.

90. Q. Major, are you familiar with the handwriting of Admiral Masuda?

A. Yes, I know.

91. Q. I now hand you prosecution's exhibit #8, directing your attention to the six back pages thereof, or from the Japanese standpoint, the six front pages thereof, and ask you whether or not you can state that is the handwriting of Admiral Masuda?

A. I believe that it was written by Admiral Masuda himself.

92. Q. Can you state definitely, Major, whether or not that is in the handwriting of Admiral Masuda?

A. Yes.

93. Q. Major, why do you think Admiral Masuda ordered the execution of the three American fliers?

The accused objected on the grounds that the question was not properly framed. The objection was sustained by the commission.

93. Q. Major, why were the three American fliers executed?

A. I do not know.

94. Q. To your knowledge, Major Furuki, were there any acts done by or performed by the American fliers which would have caused them to be executed.

A. When this report was written it was said that the Americans were afraid of air raids and were always trying to run away.

Cross-examined by the accused:

95. Q. How many naval officers were there on the island in February and March 1944?

A. I do not know how many officers there were.

96. Q. Do you have any idea as to the approximate number?

A. Including Warrant Officers, I believe there was about 20.

97. Q. Major, you are in the Army. How did you know the assignments and responsibilities of the defendants here in this court?

A. I saw Lieutenant Yoshimura as platoon commander of a machine gun platoon always at his position; Ensign Kawachi was always in charge of the automobiles and was always directing it so I knew it; at that time I did not know the duties of Ensign Tasaki but this year after this incident arose I found out what his duties were. I knew Warrant Officer Tanaka because he was very good in wrestling.

98. Q. Who was the officer-in-charge of the guards during February and March, 1944 on Enidj Island?

A. Lieutenant Tanaka.

99. Q. Therefore, you did not know in March or February 1944, what the duties of Ensign Tasaki were, did you?

A. Yes, I did not know.

100. Q. Was Ensign Tasaki present at the meeting with the Admiral, of which you have spoken, on or about October 5, 1945?

A. I had a feeling that Ensign Tasaki was present but I am not definite.

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101. Q. Do you know? Answer the question, yes or no!

A. I do not know whether he was there or not. I think he was there and think he was not.

102. Q. Then you do not know for sure whether he was there or not?

A. I am not definite.

103. Q. How many times did you see the American fliers?

A. Twice.

Examined by the commission:

104. Q. Was any trial held for the American fliers at any time prior to their execution?

A. I do not know.

105. Q. Is it possible that in your official position as senior Army officer, a trial could be held without your knowing of it?

A. I do not know.

106. Q. Did you ever even hear a rumor of a trial being held?

A. I did not hear.

Reexamined by the judge advocate:

107. Q. Major, on October 5, 1945, you have testified that Admiral Masuda committed suicide. Did you see Admiral Masuda after he was dead?

A. Yes.

108. Q. How soon after you arrived at the Admiral's quarters and after he had shot himself did he die?

A. I believe it was about 15 or 20 minutes afterwards.

Recross-examined by the accused:

109. Q. Major, do you know when the Admiral shot himself?

A. I believe it was about four o'clock.

110. Q. Did you see the Admiral commit suicide? The actual suicide?

A. I did not see him commit suicide.

111. Q. Then, of your own knowledge, you do not know when the Admiral committed suicide, do you?

A. Yes.

112. Q. Then how can you arrive at a statement of time that elapsed between the time of shooting himself and his actual death?

A. The Admiral's orderly ran to the doctor's place and my place and told us the Admiral had committed suicide and we all ran over to the Admiral's place.

113. Q. Have you any knowledge other than that document there that has been presented as to why the Admiral committed suicide?

A. Once Admiral Masuda stated that after the unconditional surrender of Japan to the U. S. that he could not give himself alive to the Americans.

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

The witness made the following statement:

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Tasaki was the assistant to the chief of guards but he was not assigned the order for taking care of the prisoners. And regarding this point, Admiral Masuda asked for forgiveness from Skipper McKenzie for not having appointed an officer-in-charge of the prisoners. That is all.

The witness was duly warned and withdrew.

The commission then, at 12:20 p.m., took a recess until 2:00 p.m. at which time it reconvened.

Present:

All the members, the judge advocate and his counsel, the accused and their counsel, the reporters.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rate, and present station of duty.
A. My name is Larry Watanabe, I am a T-3 in the U. S. Army, and I am on temporary additional duty with ComMarGils.
 2. Q. What are your duties with ComMarGils?
A. My duty is to act as an interpreter.
 3. Q. Do you also make translations?
A. Yes.
 4. Q. At this time, I hand you prosecution's exhibit #7A, and ask you if you have seen it before?
A. Yes.
 5. Q. I hand you prosecution's exhibit #7B and ask you if you have seen that before?
A. Yes.
 6. Q. Will you now state what exhibit #7B is?
A. Exhibit #7B is the English translation of this document known as exhibit #7A, translated by myself and Sgt. Sunamoto.
 7. Q. Are the contents of exhibit #7B an accurate translation of the contents of exhibit #7A?
A. To the best of my knowledge, yes.
- Exhibit #7A and #7B was offered in evidence by the judge advocate.
- There being no objection it was received and is appended marked "Exhibit 7-A" and "Exhibit 7-B".
8. Q. I hand you prosecution's exhibit #8A and ask you if you have seen it before?
A. Yes.
 9. Q. I hand you prosecution's exhibit #8B and ask you if you have seen it before?
A. Yes.
 10. Q. What is exhibit #8B?
A. Exhibit #8B is the English translation of this Japanese document known as Exhibit #8A.
 11. Q. Is exhibit #8B a complete or a correct translation of everything that is in exhibit #8A?
A. No, this is not a translation of all the writing in exhibit #8A, but just of pages 4, 5, 6, and 7 of exhibit #8A.

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12. Q. Does there appear on pages 4, 5, 6, or 7 of exhibit #8A, the signature of Admiral Masuda?

A. His personal stamp is on this page.

13. Q. Are the contents of exhibit #8B an accurate English translation of pages 4, 5, 6, and 7 of prosecution's exhibit #8A?

A. To the best of my knowledge, it is.

Exhibit #8A and #8B was offered in evidence by the judge advocate.

There being no objection it was received and is appended marked "Exhibit 8-A" and "Exhibit 8-B".

14. Q. I now hand you prosecution's exhibit #9A and #9B and ask you if you have seen it before?

A. Yes.

15. Q. What is exhibit #9B?

A. Exhibit #9B is a Japanese translation of exhibit #9A.

16. Q. What is exhibit #9A?

A. Exhibit #9A is a statement of Lt. (jg) Taugio Yoshimura.

17. Q. Does that statement contain the signature of Lt. Yoshimura?

A. Yes.

18. Q. Does prosecution's exhibit #9B contain the signature of Lt. Yoshimura?

A. Yes.

19. Q. State whether or not you were present when these statements were signed by Lt. Yoshimura?

A. Yes.

20. Q. Who else was present?

A. Lt. Murphy, myself, and the defendant.

21. Q. Prior to the signing of either of those statements, did the defendant, Lt. Yoshimura, read prosecution's exhibit #9B?

A. Yes.

22. Q. Did Lt. Yoshimura make any corrections on exhibit #9B at the time when he read the statement?

A. Yes.

23. Q. Are those corrections indicated on exhibit #9B?

A. Yes.

24. Q. Are those corrections initialed by Lt. Yoshimura?

A. Yes.

25. Q. Are all the corrections made on exhibit #9B, shown on exhibit #9A, the English translation thereof?

A. Yes.

26. Q. At the time Lt. Yoshimura signed these statements, were any threats or promises made to him to compel him to sign exhibits #9A and #9B?

A. No, he was not threatened or anything of that kind. He made it freely and voluntarily.

Exhibit #9A and #9B was offered in evidence by the judge advocate.

Accused objected on the ground that it has not been brought out whether the accused has been informed as to his rights when this statement was taken from him. That is, he has not been advised as to the rights of counsel.

3/17/46
8A
not appended
is stated
JCA

The commission announced that the objection was not sustained.

Exhibit #9A and #9B was received and is appended marked "Exhibit 9-A" and "Exhibit 9-B".

27. Q. I now hand you exhibit #10A and #10B and ask you if you have seen it before?

A. Yes.

28. Q. What is exhibit #10A?

A. Exhibit #10A is a statement made by Ensign Mamoru Kawachi.

29. Q. What is exhibit #10B?

A. Exhibit #10B is a Japanese translation of exhibit #10A.

30. Q. Has exhibit #10A and #10B the signature of Ensign Kawachi thereon?

A. Yes.

31. Q. Were you present when Ensign Kawachi signed exhibits #10A and #10B?

A. Yes.

32. Q. Who else was present?

A. Lt. Murphy, myself, and Ensign Kawachi.

33. Q. Can you state whether or not Ensign Kawachi read exhibit #10B?

A. Yes, he read statement #10B aloud.

34. Q. Were any corrections made on exhibit #10B?

A. Yes.

35. Q. Those corrections are initialed, are they, by Ensign Kawachi?

A. Yes.

36. Q. Were any promises or threats made to Ensign Kawachi to force him to sign either exhibit #10A or #10B?

A. No.

37. Q. Are the corrections made on exhibit #10B reflected in exhibit #10A?

A. Yes.

38. Q. Is exhibit #10A an accurate translation into English of the contents of exhibit #10B?

A. To the best of my ability, it is an accurate translation of exhibit #10B.

39. Q. Was prosecution's exhibit #10A and #10B signed freely and voluntarily by Ensign Kawachi?

A. Yes.

Exhibit #10A and #10B was offered in evidence by the judge advocate.

Accused objected on the ground that it has not been brought out whether the accused has been informed as to his rights when this statement was taken from him. That is, he has not been advised as to the rights of counsel.

The commission announced that the objection was not sustained.

Exhibit #10A and #10B was received and is appended marked "Exhibit 10-A" and "Exhibit 10-B".

RESTRICTED

40. Q. I now hand you exhibit #11A and #11B and ask you if you have seen it before?

A. Yes.

41. Q. What is exhibit #11A?

A. It is a statement of Warrant Officer Toshimoto Tanaka.

42. Q. What is exhibit #11B?

A. It is a Japanese translation of exhibit #11A.

43. Q. Does exhibit #11A and #11B contain the signature of Warrant Officer Tanaka?

A. Yes.

44. Q. Were you present when Warrant Officer Tanaka signed exhibits #11A and #11B?

A. Yes.

45. Q. Who else was present?

A. Lt. Murphy, myself, and the defendant, Warrant Officer Tanaka, were there.

46. Q. Was exhibit #11B read by Warrant Officer Tanaka?

A. Yes.

47. Q. Was it read aloud?

A. Yes.

48. Q. Were any corrections made by Tanaka, on exhibit #11B?

A. Yes.

49. Q. Are those corrections initialed by Warrant Officer Tanaka?

A. Yes.

50. Q. Were any threats or promises made to Warrant Officer Tanaka to compel him to sign exhibits #11A or #11B?

A. No.

51. Q. Did Warrant Officer Tanaka freely and voluntarily sign exhibit #11A and #11B after reading the same and making corrections thereon?

A. Yes.

Exhibit #11A and #11B was offered in evidence by the judge advocate.

Accused objected on the ground that it has not been brought out whether the accused has been informed as to his rights when this statement was taken from him. That is, he has not been advised as to the rights of counsel.

The commission announced that the objection was not sustained.

Exhibit #11A and #11B was received and is appended marked "Exhibit 11-A" and "Exhibit 11-B".

52. Q. I now hand you exhibits #12A and #12B, and ask you if you have seen that before?

A. Yes.

53. Q. What is exhibit #12A?

A. It is a statement of Ensign Tadashi Tasaki.

54. Q. What is exhibit #12B?

A. Exhibit #12B is a Japanese translation of exhibit #12A.

RESTRICTED

55. Q. Does the signature of Ensign Tasaki appear on the exhibit #12A and #12B?

A. Yes.

56. Q. Were you present when Ensign Tasaki signed exhibits #12A and #12B?

A. Yes.

57. Q. Who else was present?

A. Lt. Murphy, myself, and Ensign Tasaki was present.

58. Q. Prior to signing exhibit #12B, did Ensign Tasaki read the same?

A. Yes.

59. Q. Did he read it out loud?

A. Yes.

60. Q. Were any corrections made to exhibit #12B by Ensign Tasaki?

A. Yes.

61. Q. Are those corrections on #12B initialed by Ensign Tasaki?

A. Yes.

62. Q. Are the corrections shown on exhibit #12B reflected also in exhibit #12A?

A. Yes.

63. Q. Were any threats or promises made to Ensign Tasaki to force him to sign?

A. No.

64. Q. Did Ensign Tasaki freely and voluntarily sign those statements?

A. Yes.

65. Q. Does exhibit #12A completely and correctly reflect the contents of exhibit #12B?

A. Yes.

Exhibit #12A and #12B was offered in evidence by the judge advocate.

Accused objected on the ground that it has not been brought out whether the accused has been informed as to his rights when this statement was taken from him. That is, he has not been advised as to the rights of counsel.

The commission announced that the objection was not sustained.

Exhibit #12A and #12B was received and is appended marked "Exhibit 12-A" and "Exhibit 12-B".

66. Q. Again, I am handing you prosecution's exhibits #9A, #9B, #10A, #10B, #11A, #11B, #12A, and #12B, and I will ask you if your signature appears on all of those documents as a witness?

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 resumed his status as interpreter.

Exhibits 7-A, 7-B, 8-A, 8-B, 9-A, 9-B, 10-A, 10-B, 11-A, 11-B, 12-A, and 12-B were read and interpreted to the commission and the accused.

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0056

The judge advocate read a letter from the convening authority, prefixed marked "G" directing him to enter a nolle prosequi as to the charge and specification preferred against the accused, Misaki Masuda, Rear Admiral, I.J.N., on December 3, 1945.

A nolle prosequi was so entered.

The commission then, at 3:25 p.m., adjourned until 9:00 a.m., Tuesday, December 11, 1945.

RESTRICTED

THIRD DAY

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Tuesday, December 11, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant John A. Murphy, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Y1/c, U. S. Naval Reserve, reporter,
Robert W. Barrett, SKV1/c, U. S. Naval Reserve, reporter.
Each of the accused and his counsel.

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

The prosecution rested.

The defense began.

The accused, Lieutenant (jg) Tsugio Yoshimura, Imperial Japanese Navy, was, at his own request, duly sworn as a witness in his own behalf.

Examined by the judge advocate:

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

Examined by the accused:

2. Q. State your rank during February and March 1944?
A. I was a Warrant Officer in the Imperial Japanese Navy.
3. Q. Where were you stationed and what were your duties at that time?
A. I was the Commanding Officer of the 2nd machine gun platoon of the 62nd Naval Garrison Force. I was at Emidj.
4. Q. While so stationed did you have occasion to carry out an execution of an American flier?
A. Yes.
5. Q. What was the reason for that execution?
A. There was an order from the Commanding Officer to carry out the execution.
6. Q. Who was the Commanding Officer?
A. Masuda, Nisuke, Imperial Japanese Navy, Rear Admiral.
7. Q. Did you at the time believe the order for execution to be a legal one?
A. I do not know such things.

The question was repeated by direction of the commission to get a clearer answer.

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RESTRICTED Yes.

8. Q. Did you expect an Admiral of the Navy to issue an illegal order to you, a Warrant Officer?

A. I did not believe so.

9. Q. Have you ever questioned an order of a superior officer?

A. I have not.

10. Q. What would happen under Japanese military system if an order were questioned or refused?

The judge advocate objected on the grounds that the witness had not been qualified as an expert on Japanese military law in this situation and on the grounds that this trial is not being held under Japanese penal law.

The accused replied.

The commission was cleared.

The commission was opened and announced that the objection was not sustained.

A. In a battlefield, if you refuse to obey a superior officers orders, you will be executed.

11. Q. What would have happened to you if you had refused to carry out the order of the Admiral pertaining to the execution?

The judge advocate objected on the grounds the question was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I will be executed.

12. Q. Did you protest this assignment?

A. Yes, sir, I protested, not against the order, but I gave a protest at the Admiral.

13. Q. What was the protest that you made?

A. The Admiral told me "tonight at 10 o'clock there will be an execution of three American fliers on Aineman and won't you do it". He so said, so I refused. And I said "isn't there any other suitable person to do it" and "if I do it myself I won't be able to execute three people".

14. Q. Why did you protest?

A. I never did harbor any ill feeling in wanting to execute these three fliers.

15. Q. Did you at the time consider the execution to be in line of duty?

A. At first it was not an order.

16. Q. Did you make any reports upon completion of the execution?

A. Yes, I did.

17. Q. To whom did you make a report, or reports?

A. To Island Commander Masuda.

18. Q. When did you make that report?

A. After the execution was completed and we returned to headquarters, I proceeded to the Admiral's quarters.

19. Q. Can you be more specific and state the date and time?
A. The day is the day of the execution and the time I am not sure but it was either 10:40 or 10:50 at night.
20. Q. How long have you been in the military service of Japan?
A. 17 years.
21. Q. Is that all active service?
A. Yes.
22. Q. How old are you?
A. 36.
23. Q. I show you here a statement in Japanese and the English translation of that document and ask you if you know what it is?
A. The things I said at Majuro are stated in this statement.
24. Q. Did you write this Japanese statement here?
A. No.
25. Q. Does your signature appear on this Japanese document?
A. Yes, my signature appears on it.
26. Q. And when did you affix your signature to this statement?
A. I believe it was about the third of December.
27. Q. Why did you sign this paper?
A. I was told to sign it so I signed it.
28. Q. Did you know what you were signing?
A. I signed what I said down at Majuro, which was on the statement.
29. Q. Were you told of your legal rights before being asked to sign this statement?

The judge advocate objected to the question as being irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I do not remember.

30. Q. Were you warned by the person or persons taking this statement which has been introduced previously as prosecution's exhibit #9A and #9B, that any statement you might make might be used against you to your detriment?
A. I believe it was so said.

31. Q. What was said to you?

The judge advocate objected to the question as being irrelevant and immaterial.

The commission announced that the objection was sustained.

32. Q. Are you a kendo expert?
A. I am not good at Kendo.
33. Q. Why did you use a pistol instead of a sword at the execution?
A. I believed the pistol was more suitable so I used the pistol.

RESTRICTED

Cross-examined by the judge advocate:

34. Q. I show you prosecution's exhibits #9A and #9B, which is your statement and ask you if you made this statement: "I have made this statement freely and voluntarily. No threats or promises have been made to me by anyone in regards to any of the subject matter contained therein, and no force was used to compel me to make any of the said statements?" Did you sign that statement and sign your name thereunder?

A. Yes.

35. Q. The witness stated that he reported to Admiral Masuda following the execution. Was Major Furuki present at the time you reported to Admiral Masuda?

A. He was not.

36. Q. The witness has stated that it is not a custom in the Japanese Navy to question orders and that he considered this order a legal order. Is that correct?

A. Yes. If it is an order it must be legal.

37. Q. Did you make the following statement: "At first I refused to do it so the Admiral gave me two aides to help in doing it"?

A. Yes, I did.

38. Q. At any time prior to the executions, did you discuss the subject of the execution of the American fliers with Major Furuki?

A. No.

39. Q. Did you discuss it with Major Furuki subsequent to the execution?

A. No.

Examined by the commission:

40. Q. You admit having shot one American flier, do you not?

A. Yes.

41. Q. Did you know whether or not any trial had been held for that flier?

A. I do not know.

42. Q. Did you ask Admiral Masuda at the time he gave you the order to execute the fliers if a trial had been held?

A. I did not.

43. Q. Are you familiar with the rules of warfare concerning the treatment of prisoners of war?

A. I do not know.

44. Q. When the Admiral gave you the order to execute the prisoners, did he state that they were to be executed in accordance with the sentences of a court?

A. He did not say such a thing.

45. Q. You have stated that a Japanese officer refusing to obey a legal order would be executed. Is that correct?

A. Yes.

46. Q. Why were you then not executed when you first refused to obey the order of the Admiral to execute the flier?

A. At first it was not an order but just a conversation between us.

47. Q. Were you directed as to the method of execution?

A. No, he did not mention anything special.

RESTRICTED

48. Q. Then you, Yoshimura, planned the method of execution yourself?

A. Yes, the Admiral told me to execute and I decided to execute by pistol.

Recross-examined by judge advocate:

49. Q. Who assisted you in the execution?

A. Ensign Kawachi and Tanaka.

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 accused, Ensign Mamoru Kawachi, Imperial Japanese Navy, was, at his own request, duly sworn as a witness in his own behalf.

Examined by the judge advocate:

1. Q. Are you Mamoru Kawachi, one of the accused in this case?

A. Yes.

Examined by the accused:

2. Q. State your rank and station and duties during February and March 1944?

A. At that time I was at Jaluit; I was the officer of machines at the 62nd Naval Garrison Force.

3. Q. Did you in February or March 1944 have occasion to carry out an execution of an American flier on Enidj Island?

A. I had carried out the execution in March.

4. Q. Why did you execute this American flier?

A. I carried out this execution by the orders of the Commanding Officer.

5. Q. Who was the Commanding Officer?

A. He is Masuda, Nisuke, Navy, Rear Admiral.

6. Q. Did you receive an order from the Admiral in person?

A. At first I received this order through Yoshimura but later realized the importance of the order. I went to confirm it with the Admiral, then the Admiral said that this was my order.

7. Q. Would you have performed the execution without an order?

A. There won't be any such thing.

8. Q. Did you make any reports upon completion of the execution, and if so, to whom?

A. Yoshimura, who was the ranking officer in our group at that time, took the responsibility for all of us and reported to the Admiral.

9. Q. What is your age?

A. 37.

10. Q. How long have you been in the active military service of Japan?

A. 17 years.

11. Q. Are you acquainted with the international rules of war and/or the rules of the Geneva convention?

A. I do not know.

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RES. J.B.

12. Q. I show you the prosecution's exhibit #10A and #10B and ask you if that is your signature affixed on each one?

A. Yes, it has my signature.

13. Q. At the time you placed your signature on these statements, were you warned that any statement you might make, verbal or written, might be used against you?

A. Yes.

14. Q. What have you been told about the nature of an order?

The judge advocate objected to this question as being irrelevant and immaterial.

The accused withdrew the question.

15. Q. What have you been told in the Japanese Imperial Navy about obeying an order of a superior?

A. In the Imperial Rescript it said that the Imperial orders through the officers orders must be obeyed without question. And up until the present time we have been educated through this rescript as well as subordinate officers.

Cross-examined by the judge advocate:

16. Q. What time did Yoshimura come to your quarters and ask you to help him execute the three American fliers?

A. I am not definite of the time but it was after sun down, it was about four or sometime after that, around March 10, 1944.

17. Q. At that time did you agree to assist Lieutenant Yoshimura in the execution of the fliers?

A. First Yoshimura came into my room and told me "I have something to tell you", so we went where nobody was. And at that time Yoshimura said "I received orders that we will execute three American fliers secretly tonight and won't you help me?" And at that time I refused, saying that I did not like to kill people and "can't you find some other suitable person?" And Yoshimura said "this is not a discussion but it is an order from the Commanding Officer, so you must help me". Since it was an order from the Commanding Officer I could do nothing but obey.

18. Q. When did you see Admiral Masuda regarding the matter of executing the fliers?

A. After Yoshimura told me this was an order from the Commanding Officer and you must help me, he further told me to meet him tonight in front of headquarters and to be sure to be armed with a pistol and sword. And several minutes later Yoshimura came again and said that tonight's doing is secret so don't talk to anybody about it and be sure to have a truck at nine o'clock tonight, and left. Then I realized that killing a person is a grave problem and order and in order to confirm it I went to the Admiral's quarters.

19. Q. What time was this?

A. Immediately after Yoshimura left. I cannot remember accurately the time or minutes. Then I went to the Admiral and asked him if he told Yoshimura to execute three American fliers tonight: "Is that your order?" and he said "Yes, this is my order; it might be troublesome but tonight, under Yoshimura's direction, carry out this execution".

20. Q. Then when you went to the Admiral for orders you had already agreed to assist Yoshimura in the execution of the fliers?

The accused objected on the grounds that the witness had already testified as to what he did and the question seems to be leading and putting words in the mouth of the witness.

The judge advocate replied.

The judge advocate stated he would rephrase the question.

21. Q. Then it was after you had agreed to assist Lieutenant Yoshimura that you went to the Admiral's quarters?
A. Yes.

The defense moved that the answer be stricken because the witness had not previously said he agreed to do this.

The judge advocate replied that the witness statements certainly implied that he had agreed to carry out the order.

The commission announced that the objection was sustained.

22. Q. When Lieutenant Yoshimura discussed with you the matter of the three fliers and, prior to the time he left your quarters, did you agree to help him execute the fliers?
A. He said it was an order from the Commanding Officer, so I agreed.

23. Q. Then it was after you agreed with Lieutenant Yoshimura that you would assist him in the execution of the three fliers that you later went to the Admiral's quarters?
A. Yes.

24. Q. I hand you prosecution's exhibit #10A and #10B and ask you if there is anything contained therein about your going to the Admiral and talking to the Admiral about the execution of the American fliers?
A. There is no such thing.

25. Q. Do you recall being interrogated by American authorities in the past regarding the matter of the execution of the three American fliers?
A. Yes, I recall.

26. Q. Have you ever to any American authority heretofore stated that you went to the Admiral regarding and discussed with the Admiral, the matter of the execution of the three American fliers?
A. I believed I mentioned that. When I signed this statement, I told you (meaning interpreter) there are a number of things which are not in the statement and you (meaning interpreter) replied "you can tell the details to the other officer who can come later". So at that time I did not include that thing.

27. Q. When did you order the truck driver to be present?
A. Down at Majuro I said it was about 9:30 but later on, thinking about it, it might have been about nine o'clock.

28. Q. And was this before you talked with the Admiral or after you talked with the Admiral, when you ordered the truck?
A. I told the driver about nine o'clock.

29. Q. Was that before you had gone to see Admiral Masuda?
A. After.

30. Q. When you went to discuss the matter of the execution of the fliers with Admiral Masuda, was Major Furuki present?
A. I believe I did not see anybody else besides the Admiral.

31. Q. Did you ever discuss the matter of the execution of the American fliers at any time with Major Furuki?
A. No.

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Examined by the commission:

32. Q. Was Admiral Masuda alive at the time you signed prosecution's exhibit #10A?

A. He was dead.

33. Q. How many fliers did you execute?

A. One.

34. Q. How?

A. Orders were from Lieutenant Yoshimura to execute by pistol fire. Simultaneous with Lieutenant Yoshimura's command to fire we fired one round. Seeing that we missed a vital point and the prisoner was writhing on the ground as if in pain and feeling sorry for making the prisoner suffer so long, I fired my second round but it didn't go off. As a result, and as I have said before, feeling sorry for making him suffer, I drew my sword and stabbed the region which I thought was his heart. Then he ceased his writhing, so I thought he was dead.

The witness made the following statement:

I would like to ask the court to bear in mind that when we executed these fliers we did not bear any ill feeling or malice towards these fliers. I would like to again ask the court that orders in the Japanese Navy is an absolute order and must be obeyed.

Reexamined by the accused:

35. Q. Ensign Kawachi, tell us the personality and character of Admiral Masuda insofar as military procedure was concerned.

The judge advocate objected to the question as being completely irrelevant and immaterial.

The commission announced that the objection was not sustained.

The accused rephrased the question.

36. Q. Ensign Kawachi, tell us, if you know, the attitude of Admiral Masuda concerning the obeying of orders and military discipline.

A. When I say what I know, Admiral Masuda was a very strong and will-powered man. As a result, no one dared to go against his determination and he always followed his own beliefs. He was a very religious person. He was a very strong-hearted person and he was very considerate of his subordinates and he was like a father to a son and he took care of all our troubles and on Jaluit Atoll all the non-commissioned officers and men and even some natives felt towards the Commanding Officer as a God. That is all I have.

Examined by the commission:

37. Q. If the Admiral was strong-willed and considered a God, why did you question his order by going to him to verify it?

The accused objected to this question on the grounds that the defendant did not question the order but merely was verifying that it did come from the Admiral.

The commission withdrew the question.

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

The witness said that he had nothing further to state.

RESTRICTED

The witness resumed his status as accused.

The commission then, at 11:30 a.m., took a recess until 1:00 p.m., at which time it reconvened.

Present:

All the members, the judge advocate and his counsel, the reporters, the accused and his counsel.

The accused, Ensign Mamoru Kawachi, Imperial Japanese Navy, was, at his own request, recalled to the stand as a witness in his own behalf.

Examined by the accused:

38. Q. Ensign Kawachi, defense counsel Hirata has stated to me that you want to add to your testimony of this morning and tell the court additional information about the agreement between yourself and Lieutenant Yoshimura? Is that correct?

A. Yes.

39. Q. Will you tell the court in your own words what it is you have on your mind?

A. Yoshimura told me that this was not a discussion but it is an order from the Admiral and I agreed and when I agreed I agreed to the Admiral's order and nothing else.

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

The witness said that he had nothing further to state.

The witness resumed his status as accused.

The accused, Warrant Officer Tashimoto Tanaka, Imperial Japanese Navy, was, at his own request, duly sworn as a witness in his own behalf.

Examined by the judge advocate:

1. Q. Are you Tashimoto Tanaka, an accused in this case?

A. Yes, I am.

Examined by the accused:

2. Q. Warrant Officer Tanaka, tell us what your rank, station and duties were during March 1944?

A. I was at Enidj on Jaluit Atoll; I was the paymaster chief petty officer; I was the ranking non-commissioned officer in the paymaster group of the 62nd Naval Garrison Force.

3. Q. Did you have occasion to carry out an execution of an American flier at that time?

A. Yes.

4. Q. Why did you execute this flier?

A. The reason is because I received an order to do so by the Commanding Officer.

5. Q. Who was your Commanding Officer?

A. Rear Admiral Masuda.

6. Q. Did he order you personally to carry out this execution?

RESTRICTED

A. At first I received a request from Lieutenant Yoshimura; since it was a request I refused. But Yoshimura said this was an order from the Commanding Officer so I had to obey. And furthermore, after Yoshimura left about 30 or 40 minutes later I met the Commanding Officer as he was taking a walk and at that time the Commanding Officer asked me if I heard something from Yoshimura. Then I told the Admiral what Yoshimura told us about executing the three American fliers tonight and the Admiral said do just as Yoshimura said and to your job, and continued his walk.

7. Q. When you stated your refusal to Lieutenant Yoshimura, tell us, if you remember, or to the best of your recollection, what you said to him?

A. After supper, as I was resting outside my quarters, Warrant Officer Yoshimura came over and said: "I have something to tell you and you come with me". Then Yoshimura took me to an air raid shelter in front of the paymaster quarters where nobody was. And then Yoshimura made a request, saying that "today I received an order from the Admiral to execute three American fliers tonight", and I refused, saying I did not like it. Then Yoshimura said "it is an order from the Commanding Officer, so you must obey it", so I had to obey it.

8. Q. Did you say anything else?

A. Yoshimura first said that this is a secret matter so do not talk about it to anybody else and be sure to be armed with your pistol and sword and be in front of headquarters tonight at nine o'clock.

9. Q. Is there an Imperial Rescript dealing with military orders and the obeying thereof?

A. There is such a thing.

10. Q. Tell the court in your own words what you know about it.

A. You cannot question a superior officer's orders and you must take it that the order came directly from me. "Me" - it has reference to the Emperor.

11. Q. Where have you become acquainted with that Imperial Rescript and its text?

A. I learned it when I first joined the Navy.

12. Q. Would you have performed the execution without a legal order?

The judge advocate objected to the question on the grounds that it would be a self-serving statement.

The accused replied.

The commission announced that the objection was sustained.

13. Q. In order to carry out an execution, is it necessary to have a legal order from a superior officer?

The judge advocate objected to the question on the grounds that it has not been established what a legal order or illegal order is, either in Japanese or American military law.

The accused replied.

The commission announced that the objection was sustained.

14. Q. When you carried out the execution, did you believe at that time that you were carrying out a legal order?

A. Yes.

RESTRICTED

15. Q. Did you have a personal desire to execute these fliers at that time?

A. I did not have any desire of that sort.

16. Q. Had you ever seen these fliers prior to the execution?

A. Yes.

17. Q. Under what circumstances?

A. I do not remember the actual date but it was after the fliers had arrived at Emidj from a nearby island. I saw them in the barracks of the Air Force Headquarters.

18. Q. Prior to receiving the order from Lieutenant Yoshimura concerning the execution had you spoken with anyone about the fliers or their fate?

A. I did not.

19. Q. Did you make any report upon completion of the execution?

A. No.

20. Q. How old are you?

A. 31.

21. Q. How long have you been in the active military service of Japan?

A. 11 years and six months.

22. Q. Are you acquainted with the international rules of war as they apply to prisoners of war or the rules found in the Geneva Convention?

A. I do not know.

Cross-examined by the judge advocate:

23. Q. What is the Imperial Rescript?

A. It is a rescript given by the Emperor of Japan to the members of the Japanese Army and Navy.

24. Q. Concerning rules of war?

A. It is the words of the Emperor describing in detail the feelings of the Japanese soldier and sailor.

25. Q. Does it provide the disciplinary rules for the soldiers and sailors in the Japanese Navy?

A. There is no such thing as that.

26. Q. Does it mention punishment in the Imperial rescript?

A. I believe there is nothing like that.

27. Q. On October 8, 1945, were you questioned by Lieut. Comdr. Finkelstein at Majuro regarding what went on at Jaluit Atoll?

A. I remember being interrogated.

28. Q. Did you mention at that time to the questioning officer how it happened that you were chosen to take part in the execution?

A. I said that I received the Admiral's orders through Yoshimura and therefore obeyed it.

29. Q. Did you not tell Lieut. Comdr. Finkelstein that Yoshimura selected you because you and Yoshimura were good friends since you left Japan?

A. I believe the question at that time was why did Yoshimura select me to help with the execution and since Yoshimura and I are very good friends and our feelings are about the same that is why I thought he picked me.

RESTRICTED

30. Q. So Yoshimura selected you?

A. I believe the Admiral told Yoshimura to select two helpers and I believe because Lieutenant Yoshimura was a very good friend of mine he selected me as one of his helpers.

31. Q. I show you prosecution's exhibit #11A and #11B and ask you if it shows here that you had this meeting at night with the Admiral when you checked with the Admiral on this order?

A. It is not written there.

32. Q. How does it happen that you have not mentioned this incident up until this time and neglected to include it in this statement?

A. Down at Majuro I intended to tell it and started to tell several words but the interrogation was so fast that he proceeded on to the next question before I could answer. Furthermore, when I was to sign the statement I was told that as long as the facts on the statement was accurate and if you have anything else to say tell it to the other American officer later. Then you can tell it to him and bring it up in court.

33. Q. Did you mention to the interrogating officer at the time you signed this statement marked prosecution's exhibit #11A and #11B, did you mention that you had confirmed this order with the Admiral?

A. I intended to tell it but as I said before I was told there might be some thing else but as long as things noted in the statement are accurate you can tell it to the next American officer that was coming. Furthermore, I was definitely told to make sure that if there is a mistake in the statement to correct it but otherwise if you have anything else, tell it to the next American officer.

34. Q. Did you regard the meeting with the Admiral on the night of the execution, at which time you allegedly confirmed these orders, an important event in the evening procedure?

The accused objected on the grounds that the opinion of the witness is irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I believe it was not too such important point.

35. Q. At the time you were shown the original statement of your description of what went on on the night of the execution, which you later signed, prosecution's exhibit #11, did you make any corrections or additions to that statement?

A. Yes.

36. Q. Did you add to that statement the followings: "At first I refused but later" - did you add that statement to the original statement presented to you?

A. Yes, I did.

Examined by the accused:

37. Q. Officer Tanaka, at the questioning in Majuro, who questioned you?

A. I can recognize his face, but I do not know him.

38. Q. What was he, American or Japanese?

A. He was an American officer.

39. Q. Did you answer his questions?

A. Yes.

RESTRICTED

40. Q. How many questions did he ask you, approximately?

A. Things mentioned in the statement and some other things were also asked.

41. Q. Then all you did was to answer questions, is that correct?

A. Yes.

42. Q. Then it could be possible that there were other facts existing of which you had knowledge but of which you were not asked, is that correct?

A. Yes, there was.

The defense asked that the court take notice of the fact that there is no statement, on the document referred to, saying it is a full, complete and detailed statement of all important facts.

Examined by the commission:

43. Q. How many fliers did you execute?

A. One.

44. Q. How?

A. It was firing by a pistol.

45. Q. Did you use any other means? Did you use your saber or dagger?

A. I do not have any sword so I do not use it.

46. Q. Did you know of, or did you hear about any trial for the fliers?

A. I did not hear nor do I know anything about it.

47. Q. Did the American officer who interrogated you ask you the question "State all that transpired on the night of March 10, 1944?"

A. Yes, I believe he said to describe what happened on the night of March 10.

48. Q. Did you describe everything that happened on the night of March 10, 1944?

A. I did not describe all the happenings of that night; I had two reasons. One of them was that at that time it did not come into my head to say it. Another reason is that they did not give me time to say it. The questions were coming very rapidly.

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

The witness made the following statement:

This morning when the other two defendants were asked whether or not they knew the prosecution's exhibit was to be used in the courtroom they replied yes, but when they came to ask me they did not say anything about it to me and I did not think the statement would be made in court.

This morning the characteristics of the Admiral was stated but I believe the most important characteristic was missed and I would like to say it now. There are many occasions when the Admiral believes in the subordinate, he believes him a good officer or non-com, he will go direct to the officer or non-com and give him an order and not go through the chain of command. This has happened often. For example, in my work there are occasions when the order was supposed to come through the officer in charge of paymaster it will come directly from the Admiral to me. And ordinarily in the Japanese Army or Navy Flag Officers, Generals and Admirals, generally do not associate with non-coms like us and there are many occasions when the Admiral went directly to non-com, enlisted men or even to the civilians attached to the Army or Navy and requested that they do things for him.

The witness said that he had nothing further to state.

The witness resumed his status as accused.

The defense rested.

The defense then moved that the court direct a verdict of acquittal in regards to Ensign Tasaki, on the grounds that a prima facie case has not been established by the prosecution.

The commission announced that the motion was denied.

The rebuttal began: The judge advocate was called as a witness for the prosecution.

Examined by the judge advocate:

1. Q. State your name, rank and present duty station.
A. Lieutenant John A. Murphy, USNR, attached for temporary duty, Staff, Commander Marshalls Gilberts Area.
2. Q. I show you prosecution's exhibits #9A, #9B, #10A, #10B, #11A, #11B, #12A, and #12B, which are the statements made by the defendants in this case, and ask you if you received the statements from the defendants in question and, if you saw them sign these statements?
A. Yes, I was present when each of the defendants read aloud a Japanese translation of each of these exhibits and corrected same. I was also present and saw each of the accused sign their respective statements.
3. Q. What was the date of the signing of the prosecution's exhibit #9A and #9B by the accused?
A. Prosecution's exhibit #9A and #9B were signed by the accused, Tsugio Yoshimura, on the first day of December 1945.
4. Q. What was the date on which the accused signed prosecution's exhibit #10A and #10B?
A. Prosecution's exhibit #10A and #10B were signed by the accused, Mamoru Kawachi, on December 1, 1945. Prosecution's exhibit #11A and #11B was signed by accused, Toshimoto Tanaka, on December 2, 1945. Prosecution's exhibit #12A and #12B was signed by accused, Takashi Tasaki, on December 2, 1945.

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

The witness resumed his status as judge advocate.

The defense moved that the court direct a verdict of acquittal in regards to defendant Ensign Tasaki on the grounds that a prima facie case has not been established against him.

The commission announced that the motion was denied.

The commission then, at 3:00 p.m. adjourned until 9:00 a.m. Wednesday, December 12, 1945.

RESTRICTED

FOURTH DAY

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Wednesday, December 12, 1945.

RESTRICTED

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champien, Jr., USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant John A. Murphy, U. S. Naval Reserve, and
Lieutenant William P. Mahoney, U. S. Naval Reserve, as judge advocates.
Edwin A. Boles, Yl/s, U. S. Naval Reserve, reporter.

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

None of the accused desired to make a statement, and each of the accused submitted his case to the commission.

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

The accused read a written argument, appended marked "R" and "S".

The judge advocate read his written closing argument, appended marked "T".

The trial was finished.

The commission was cleared.

The commission then, at 10:00 a.m., recessed until 1:00 p.m., at which time it reconvened.

Present: All the members, the judge advocates, the reporter, the accused and their counsel.

No witnesses not otherwise connected with the trial were present.

The commission was cleared.

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

As to the accused, Tsugio Yoshimura, Lieutenant (jg), IJN, the specification of the charge proved, and that the accused, Tsugio Yoshimura, Lieutenant (jg), IJN, is of the charge guilty.

As to the accused, Mamoru Kawachi, Ensign, IJN, the specification of the charge proved, and that the accused Mamoru Kawachi, Ensign, IJN, is of the charge guilty.

As to the accused, Toshimoto Tanaka, Warrant Officer, IJN, the specification of the charge proved, and that the accused, Toshimoto Tanaka, Warrant Officer, IJN, is of the charge guilty.

As to the accused, Tadashi Tasaki, Ensign, IJN, the specification of the charge proved, and that the accused, Tadashi Tasaki, Ensign, IJN, is of the charge guilty.

The commission was opened and all parties to the trial entered.

The commission informed each of the accused that it had found the specification of the charge proved and that each of the accused is of the charge guilty.

The accused, Tadashi Tasaki, Ensign, IJN, then read a written statement setting forth matter in extenuation of the offense, appended marked "U".

The commission was cleared.

The commission was opened.

The commission then, at 3:15 p.m., adjourned until 9:00 a.m., tomorrow, Thursday December 13, 1945.

FIFTH DAY

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Thursday, December 13, 1945.

The commission met at 10:40 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champien, Jr., USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant John A. Murphy, U. S. Naval Reserve, and
Lieutenant William P. Mahoney, U. S. Naval Reserve, as Judge Advocates.
Edwin A. Boles, Yl/c, U. S. Naval Reserve, reporter.

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

The commission was cleared.

The commission was opened. All parties to the trial were present.

RECORDED

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

The commission, therefore, sentences him, Tsugio Yoshimura, Lieutenant Junior Grade, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring.

The commission, therefore, sentences him, Mamoru Kawachi, Ensign, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring.

The commission, therefore, sentences him, Tadashi Tasaki, Ensign, Imperial Japanese Navy, to be imprisoned in such prison or penitentiary as the convening authority may designate for a period of ten (10) years.

The commission, therefore, sentences him, Tadamoto Tanaka, warrant officer, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring -

B. H. Wyatt.

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

John A. Murphy

JOHN A. MURPHY,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

WILLIAM P. MAHONEY,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

RESTRICTED

Ensign Tadashi Tasaki, Imperial Japanese Navy was the officer in charge of the three American flyers who were prisoners of War of the Japanese on Jaluit Atoll during the early part of March 1944. On or about 10 March 1944 he surrendered the three American flyers to another Japanese officer knowing the Americans were to be executed.

Ensign Tasaki did not attempt to ascertain if the American flyers were to be executed "for cause", that is after trial and conviction of a crime recognized under the provisions of the Geneva Convention relating to the treatment of Prisoners of War. In fact the three American flyers had not been given a trial, had not been found guilty of any crime, and were executed illegally.

For the reasons stated above Ensign Tadashi Tasaki was found GUILTY and sentenced to serve ten years in the penitentiary.

The circumstances under which Ensign Tasaki surrendered the three American flyers to another officer of the Imperial Japanese Navy were such that it is felt he is a just subject for clemency.

The undersigned therefore invites attention to the particular conditions confronting Ensign Tadashi at the time he surrendered the flyers for execution and requests consideration of this plea for clemency.



Basil P. Cooper,
Lieutenant Colonel, U. S. Army, Member.

RESTRICTED

In consideration of the mitigating circumstances shown by the evidence to have existed in connection with the offense set out in the specification of the charge, and of the absence of evil motive, the brief, passive and mechanical participation of the accused, Tadashi Tasaki, Ensign, IJN, in the circumstances surrounding the offense, I strongly recommend the said Ensign Tadashi Tasaki, IJN, to the clemency of the reviewing body.

Samuel D. Hyatt

W. C. Champion, Jr.
C. C. Champion, Jr.,
Captain, U. S. Navy

J. P. Weisser
Captain (MC) US Navy

RESTRICT J

The commission was opened.

The commission then read and pronounced its sentence to each of the accused.

The commission, having no more cases before it, adjourned to await the action of the convening authority.

B. H. Wyatt.

B. H. WYATT,
Commodore, U. S. Navy, President.

John A. Murphy

JOHN A. MURPHY,
Lieutenant, U. S. Naval Reserve, Judge Advocate

RECORDED

Here is appended a brier of the Accused argument on plea to Jurisdiction:

1. Congress has not, under its constitutional powers, delegated authority or jurisdiction to military commissions to try enemy nationals for "war crimes" or issues predicated on international law. The formation and operation of a military commission for the trial of such issues is unconstitutional. The military commission formed by this court falls within that principle.

2. This court has no jurisdiction to try the defendants on charges or specifications which are founded on principles or rules which were not in existence at the time of commission of the acts for which defendants are charged, and hence "Ex Post Facto".

3. The "SCAP" rules AG 000.5 (24 Sept. 45) JA issued by command of General MacArthur upon which the trial and court are established, are in derogation and violation of established substantive and procedural law known to American jurisprudence, and therefore non-legal as a foundation for trials of a criminal nature. In particular, Section 16 on evidence is prejudicial to the substantive rights of the defendants if followed, in that it permits introduction of hearsay and secondary evidence not permitted in the known exceptions to the "best evidence" rule and without reundation to the detriment and prejudice of the defendants.

For these aforementioned reasons, defense objects to the use of section 16 in general and specifically to section 16-A (1), (2), (4), (5); Section 16 C, D, F.

Also, Section 5, is objected to on the same grounds. Particularly that part stating "—offenses—whether or not in violation of the domestic law of the country where perpetrated".

4. Assuming that SCAP rules apply, the venue of this trial is incorrectly laid. Under Section 5 (b) trials shall be held in Japan, except that "persons whose offenses have a particular geographical location outside Japan MAY be returned to the scene of their crimes for trial by competent military or civil tribunals of local jurisdiction.

If the exception to section 5(b) is to be invoked, the trial should be held in Jaluit, scene of the alleged crimes.

The defendants have the election under section 5(b) and so elect to be tried by a civil tribunal.

"X"

RESTRICTED

0078

Here is appended a brief of the Judge Advocate's argument on plea to Jurisdiction:

The jurisdiction of this commission has already been upheld in a previous case, so I believe the judge advocate's answer to the objection should be very brief.

His first objection is that Congress has not delegated authority to the Executive Branch or any other branch of the government to conduct these trials by a military commission. The judge advocate quoted from Appendix D-7, Naval Courts and Boards, page 487:

In other words the power to conduct these military commissions is an executive power and devolves upon the Commander-in-Chief, the President of the U.S., through subordinate commanders, Admirals Nimitz and Harrill. At this time I would like to introduce Dispatch 080436 October, from ComMarGils Area to CinCPac/Pea reading "Request Authority convene military commission for trial persons accused war crimes committed in this area prior to U. S. occupation". The answer to that dispatch gives permission to hold this commission, dispatch 092305 October, as follows: "Refer 080436 X YOU ARE HEREBY AUTHORIZED TO CONVENE IN COMMARGILS AREA SUCH MILITARY COMMISSIONS AS MAY BE NECESSARY FOR THE TRIAL OF SUCH WAR CRIMES CASES AS MAY PROPERLY BE BROUGHT BEFORE THEM X".

The judge advocate further stated that the specific authority for Admiral Nimitz to convene this commission is contained in Proclamation #4, of which this commission is requested to take judicial notice.

There is a charge that the laws under which this case is being prosecuted is ex post facto. The statute laws are dated 1929. The laws of humanity also set forth in the specification have no dates, the laws are set back as far as civilization.

The third objection that the procedure therein contained in the SCAP rules are in violation and derogation to the rights of the defendants, these rules are in accordance with the letter attached to the precept of this commission; they have been authorized by the Judge Advocate for the U. S. Navy and for the Army by General MacArthur. We are not trying U. S. citizens in this case but citizens of a foreign country. The judge advocate quoted from page 486, Naval Courts and Boards:

The last objection is to the venue. The same objection was raised previously and overruled on the grounds that the trial is held as close to the scene as convenient. A reasonable compliance has been made with the rules as to trying the accused near the scene of the alleged crimes.

RESTRICTED

"L"

0079

Here is appended a brief of the opening statement of the Judge Advocate:

The evidence which will be introduced by the prosecution in this case will establish the fact that on or about February 7, 1944, three American fliers from a TBF were downed about twelve miles southwest of Majuro. These fliers were Ensign Gernson, and two enlisted men: Eldan Bailey and Edward Barren. The evidence will further establish that these three fliers floated ashore to a group of small islands in the Jaluit Atoll. There they were taken in and befriended by the natives. While on the island of Lebjer they were captured by the Japanese and taken to the island of Emdj, where they were interrogated and held as prisoners of war; that on or about March 10, 1944, these three fliers were executed by being shot in a cemetery on a small island known as Aineman. The prosecution will prove beyond a reasonable doubt that the three fliers were actually killed by the three defendants Yoshimura, Kawashi and Tanaka; that the defendant Tasaki, having custody of the fliers, having known of the fact that they were to be executed, turned the American fliers over to the three executioners so they could carry out the scheme of executing the three American fliers.

101

RESTRICTED

0080

INCOMING

ROUTINE

FROM: CINCPAC, CINPOA HEDPEARL

ACTION: ATCOM MAJURO

INFO: COMMARGILSAREA; CVE 71-KUN BAY; BUPERS

100424

11 OCTOBER 45

REURDIS 062346 NOT TO ALL X KITKUN BAY GETS INFO FOR VC 63 X
ENSIGN RUBEN IVEN GORANSON A-V X NAN X USNR X 301165 X ADDRESS:
340 WEST EVERS, BOWLING GREEN, OHIO PILOT OF TBF-1C BU NO 24674
FROM VC-63 OFF THE NASURNK BAY X CVE-62 X DOWNED 12 MILES SW MAJURO
7 FEB 44 WHILE ON ASP DUE ENGINE TROUBLE X INFORMATION CONCERNING
THE NAMES, RATES, AND HOME ADDRESSES OF 2 ENLISTED CREW NOT
AVAILABLE PEARL X FIRST 2 INFO ADEES REQUESTED TO FURNISH YOU
THIS INFORMATION BY DISPATCH

REF: 062346-REQUEST NAMES RANKS AND HOME ADDRESSES OF 1 OFFICER
AND TWO ENLISTED CREW MEMBERS OF TBF WHICH CRASHED NEAR UALUIT
ATOLL ETC...ETC.....

A true copy. Attest:

Nathan G. Finkelstein
Nathan G. Finkelstein,

Lieutenant Commander, U. S. Naval Reserve, Investigator

RESTRICTED

EXHIBIT "5-B"

0081

COM. MAR-GILS AREA

| | | |
|--------------------------|-----------------------|---------|
| HEADING | 8 OCT 45 | |
| FROM: | COMMARGILSAREA | Channel |
| To: (For action) | CINCPAC-CINCPDA PEARL | Method |
| To: (For information) | | Circuit |

REST.

08436 OCT.

ROUTINE

REQUEST AUTHORITY CONVENE MILITARY COMMISSION FOR TRIAL PERSONS
ACCUSED WAR CRIMES COMMITTED IN THIS AREA PRIOR TO U. S. OCCUPATION X

A TRUE COPY, ATTEST:

R.A. Wishard
COMMUNICATION OFFICER

| | | | | | | | | | | | | | | |
|------|----------|-------|----------|----------|----------|----------|---------|----------|------------|----------|----------|-----------|-------|-----|
| TOR | TOD | 08436 | TT No. | 12 TO JB | DTG | 08436 | Date | 8 OCT 45 | CWO/Yeo. | LRS/PAUL | | | | |
| Adm. | C. of B. | Oper. | Air Int. | Supply | Fl. Sec. | Flag Lt. | Medical | Constr. | MIL. Govt. | Comm. | Av. Mat. | Av. Supp. | Pers. | |
| R | I | I | | | O | | | | I | | | | | "M" |

"A" for action. "I" for information. "O" for originator

5555-M.I.N.Y. 7-10-45-60M

0082

COM. MAR-GILS AREA

HEADING

10 OCTOBER '45

FROM:

CINCPAC - POA PEARL

Channel

To:
(For action)

COMMARILSAREA

Method
RTTYTo:
(For information)

COMMARILSAREA/ JUDGE ADVOCATE GENERAL

Circuit

REST.

002305-OCTOBER

ROUTINE

REFUR 000430 X YOU ARE HEREBY AUTHORIZED TO CONVEY IN COMMARILSAREA
SUCH MILITARY COMMISSIONS AS MAY BE NECESSARY FOR THE TRIAL OF SUCH
WAR CRIMES CASES AS MAY PROPERLY BE BROUGHT BEFORE THEM X

REF: 000430.. REQUEST AUTHORITY CONVEY MILITARY COMMISSION FOR TRIAL
PERSONS ACCUSED WAR CRIMES COMMITTED IN THIS AREA..ETC..

A TRUE COPY, ATTEST:

R. F. Miskand
COMMUNICATION OFFICER

TOR TOD

0405 RDM

TT No.

46 V JC

DTG

002305

Date

10 OCT '45

CWO/Yeo.

HBC/RE
HJF/OR

| Adm. | C. of S. | Oper. | Air Int. | Supply | Fl. Sec. | Flag Lt. | Medical | Constr. | MIL. Gert. | Comm. | Av. Mat. | Av. Supp. | Pers. | |
|------|----------|-------|----------|--------|----------|----------|---------|---------|------------|-------|----------|-----------|-------|-----|
| 1 | 1 | 1 | | | 1 | | | | 1 | | | | | "N" |

"A" for action. "I" for information. "O" for originator

5585-M.L.N.Y. 7-10-45-50M

0083

FROM: ATCOM MAJURO
TO : CINCPAC/CINCPOA PEARL
INFO: COMMARGILS

ROUTINE

~~DECLASSIFIED~~

062346

7 OCT 1945

REQUEST NAMES RANKS AND HOME ADDRESSES OF 1 OFFICER AND 2
ENLISTED CREW MEMBERS OF TBF WHICH CRASHED NEAR JALUIT ATOLL
PRESUMABLY FROM ENGINE TROUBLE ON 9 FEBRUARY 1944 X PILOTS NAME
POSSIBLY GORRONSON EITHER ENSIGN OR LIEUTENANT X INFORMATION
REQUIRED FOR WAR CRIMES INVESTIGATION X CINCPAC/CINCPOA PEARL
GIVE ACTION TO JICPOA

A true copy. Attest:

Nathan G. Finkelstein

Nathan G. Finkelstein,
Lieutenant Commander, U. S. Naval Reserve, Investigator

CAPT,EX.....COMM OFF.....LT COMDR FINKLESTEIN.....

EXHIBIT "5-A"

0084

3 DECEMBER 1945

FROM: COMMARGILSAREA

TO : SECRETARY OF STATE/ SECRETARY NAVY

INFO: JAG NAVY/ CNO/ CINCPAC/ COMMARIANAS/ COMGENMIDPAC

RESTRICTED

030735

ROUTINE

IN ACCORDANCE WITH ART 60 GPW GENEVA CONVENTION X THE FOLLOWING PRISONERS OF WAR MEMBERS OF THE IMPERIAL JAPANESE NAVY FORMERLY ATTACHED TO JALUIT ATOLL WILL BE TRIED IN JOINDER BEFORE A MILITARY COMMISSION AT KWAJALEIN ON THE CHARGE OF MURDER X SPECIFICATION CHARGES ACCUSED WITH EXECUTION WITHOUT TRIAL THREE AMERICAN FLIERS OF THE UNITED STATES NAVY WHO WERE PRISONERS OF WAR IN THE CUSTODY OF THE ACCUSED X THE LATE REAR ADMIRAL NISUKI MASUDA X LIEUTENANT JG TSUGIO YOSHIMURA X ENSIGN MAMORU KAWACHI X ENSIGN TADASHI TASAKI X WARRANT OFFICER TOSHIMOTO TANAKA X ALL OF THE IMPERIAL JAPANESE NAVY X IT IS ANTICIPATED TRIAL WILL COMMENCE ON OR ABOUT DEC 10 1945 X

A TRUE COPY, ATTEST:

R. H. Wishard
COMMUNICATION OFFICER

TOD/ 0746 JLL

TT NO./ 28 JC

DTG 030735

DATE/ 3 DEC 45
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HERE IS APPENDED THE WRITTEN OPENING ARGUMENT READ BY LIEUTENANT JOHN A MURPHY, USNR, JUDGE ADVOCATE.

As this, the second war crimes trial, draws to a conclusion I cannot help but discuss and analyze for a moment the reasons why such trials as these are now being held throughout the world; what the justification for such trials are, and what civilized society may expect to gain from them. At the outset it is the abiding hope of the world that these prosecutions of the guilty will in a clear and positive manner point out to any future war criminals and their followers, that International Crime does not pay. Only time can tell whether or not such trials as these and the subsequent punishment of war criminals will deter wars. However, regardless of the outcome, the results of these prosecutions are bound to effect profoundly the course of International relations for generations to come.

To many the concept of war crimes seems to be a bewildering anomaly. In many respects it is. But it is a fact, that notwithstanding modern destructive flame throwers, block busters, and atomic bombs, there has been since ancient time a steady growth in the restrictions and prohibitions upon the conduct of war and the employment of cruel and tortuous weapons. These, the civilized world today recognizes and enforces as the laws and customs of war.

In the days when Joshua's troops took Jerhico no customs of war were violated, when as the scriptures record they "utterly destroyed all that was in the city, both men and women, young and old - and burnt the city with fire and all that was therein. Nor was the Psalmist confessing to a war crime when he sang "I have wounded them that are not able to rise". As years have passed into history, civilized society has altered its notion in the conduct of war and has long prohibited such acts as these. In this day and age Joshua would stand condemned for violation of the laws of war established by the Hague Convention of 1907, and the Psalmist would be punishable for his atrocities by virtue of the laws of war established by the first Geneva convention.

Over the centuries nations have come to recognize and enforce by retaliation and summary punishment literally hundreds of customs of war. These customs have diligently sought to improve the lot of war stricken mankind everywhere. Among one of the basic principles which have actuated the development of the laws and customs of war, is the principle of humanity, which prohibits employment of any such kind or degree of violence as is not actually necessary for the purpose of war. Among the many and numerous restrictions and limitations under this principle is the universally recognized and accepted rule as provided in the 23rd Article, paragraph (c) 1907 Hague Convention which states: "It is especially forbidden to kill or wound an enemy who having laid down his arms or having no longer means of defense, has surrendered at discretion". And as if this clear and concise rule was not sufficient, a variety of additional rules have been universally recognized and accepted protecting prisoners of war from outrages, indignities and punishment.

Without waiting until the end of this war the U. S. has on repeated occasions as following General Doolittles raid over Tokyo, warned Japan in 1942 and 1943 to carry out its agreement to observe the provisions of the convention and in no uncertain terms warned the Japanese Government

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that we would hold personally and officially responsible for their acts of depravity and barbarity all officers of the Japanese Government who have participated in their commitment and would visit upon such Japanese officers the punishment they deserve for their uncivilized and inhuman acts against American Prisoners of War.

Thus it is clear to see why a trial of war criminals, such as the present one before this court is so justified and the precedent so well established among nations.

In the instant case, each of the accused are charged with the crime of murder. That is - the unlawful killing of a human being with malice aforethought. (Defined Navy Courts and Boards). Can any of the accused with a clear conscious honestly say today that he did not know murder was a crime against society; that he did not know it was an illegal act, after blindfolding and tying the hands of a defenseless prisoner of war to shoot him in the head and stab him in the heart until he was dead? No - if that is the defense of the accused they and each of them are hiding behind a mask of hypocrisy. They are attempting to do the same thing again, if to overcome the element of malice, they in soft whispers tell this court they felt so sorry for the fliers that at first they refused to perform their barbarous acts. What is malice? We find in U. S. vs. Reed Fed. Reports 312, the following definition: "Malice" is not necessarily meant in the law a malignant spirit, a malignant intention to produce a particular evil. If a man intentionally does a wrongful act, an act which he knows is likely to injure another, that in law is malice. It is the wilful purpose, the wilful doing of an act which he knows is liable to injure another, regardless of the consequences. That is malice, although the man may not have had a specific intention to hurt a particular individual". Can the accused be heard to say that they did not intentionally do their act. The evidence clearly shows consultations, a carefully laid plan and the execution of that plan. It is absurd to ask did the accused know their act would be likely to injure the victims. Thus in no way did, the accused nor could the accused disprove the element of malice in this case.

Now as to the other elements of the crime alleged in the specification, the prosecution tried diligently to find from its own witnesses as well as the accused what possible justifiable cause there could have been to execute the three American fliers. As the court is aware no justifiable cause was ever advanced or suggested. The prosecution clearly established through the witness Iwanami, that no trial was held for any of the fliers. If there had been such a justifiable excuse, that would have required a trial, can the court doubt for one moment but that an entry would have been made in the daily reports kept by Iwanami. In addition it is inferred strongly in the admirals report that the fliers were executed because an American invasion of Jaluit was imminent. Even the accused would have to admit that that would be without justifiable cause.

The evidence establishing the killing, by shooting and stabbing to death, three American fliers is uncontradicted and admitted by the accused, Yoshimura, Kawachi, and Tanaka. The admissions and the documentary proof clearly established that the three fliers were Americans and attached to the armed forces of the U. S. The witness for the prosecution as well as the admissions of the accused also established that the three American fliers were at the time of the execution unarmed prisoners of war in the custody of the accused. The court will of course take judicial knowledge that a state of war existed between the U. S. and the Japanese Empire on March 10, 1944.

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This, then gentlemen, clearly establishes all the allegations of the specification and charge. We now come to the question of the tying in, or the application of this specification and charge to the accused. As to the accused Yoshimura, Kawachi, and Tanaka, there can be no question. The court has before it their signed statements as well as their own testimony admitting their actual acts of execution. As to Tasaki, we find the definite statement in the Admirals report that he was the officer in charge of the prisoners. We know someone had to be in charge of the fliers and some one had to release the fliers to Yoshimura. In his signed statement Tasaki clearly stated that on the afternoon of March 10, 1944 the Admiral told him that the fliers were to be executed and that he would secretly release the fliers to Yoshimura. However, even in the absence of Tasaki's signed statement it would be good circumstantial evidence to presume that anyone in charge of the fliers releasing the fliers under the conditions that that existed late at nite to three officers, who must have known they were going to be done away with. None of these facts were disproved by any competent evidence by the accused. Tasaki, therefore is what is known as an accessory before the fact and must be treated as a principal. An accessory before the fact legally defined in Clarks Criminal Law, Page 109 is "one who is absent when the act was committed, but who procured, counceled, commanded, or abetted the principal or actual doer of the act to commit it." Also in 18 U.S. Code 550 it is stated: "Whoever directly commits any act constituting an offense defined in any law of the U. S. or aids, abets, counsels, commands, induces or procures its commission is a principal." There can be no doubt but that Tasaki's acts in ordering and arranging for the prisoners to be turned over to Yoshimura, and knowing they were to be executed did aid and abet the commission of the act of execution.

The defense of the accused, Yoshimura, Kawachi and Tanaka, that they were acting under orders and other legal objections advanced by them will be discussed by my colleague Mr. Mahoney in the prosecutions closing argument.

Suffice it is to say in conclusion, that each and everyone of the accused stand before this court of justice proved guilty beyond all doubt of the crime of murder in violation of the dignity of the United States of America, the International rules of warfare and the moral standards of civilized society.

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HERE IS APPENDED THE WRITTEN ARGUMENT READ BY Lt. CDR. KOZO HIRATA,
IJN, COUNSEL FOR ACCUSED.

In the Imperial Rescript delivered to the Japanese Army and Navy, there is such a sentence, "Subordinates should have the idea that the orders from their superiors are nothing but the orders personally from His Majesty the Emperor". And again, among the rules on the Japanese Army and Navy it is regulated to this effect "Discipline maintains the essential military strength of forces, and it itself is established by obedience. Therefore, military men should devote themselves to the Empire, should be piously obedient to their superiors, and should make it their nature a posteriori to obey and observe meekly and immediately whatever orders if these are from their superiors". This primary principle is the quintessence of the Imperial Japanese forces, so is the basis of military education, pervades over whole military life, and becomes the pivot of military activity. This primary principle cultivates the austere discipline among Japanese military units under which commanders can move their men so easily as to be able to drive them into fire and water at their beck and call. In this way, can we drill out such efficient Japanese forces that can be commanded in strict order and fight to the last one confronting with the most tragic scenes of the field.

If the court please, a Japanese military unit which might be considered as an organism having the commander as the brain, the men as the five members, and the relation of order and obedience the frame, has consequently, the special character as a society, which I like to call totalitarianism and absolutism. To be sure, any force of any country has more or less this character, but as far as I know, it is an outstanding feature of the Japanese forces that they are remarkable in this character over the world. So we cannot apply the liberal and individualistic ideas which rule usual societies unmodified to this totalitarianistic and absolutistic military society. For instance, the authority and responsibility in the hands of the Japanese military commanders are so immense that externally they are supposed to represent personally, as the subjects of those organisms, whole authority and responsibility of the organic units under them, and contrarily their subordinates having internally responsibility toward them, externally are supposed to have lost independent personality. Because those subordinates must obey their commanders as their limbs absolutely and have almost no capacity to avail their own judgement.

If the court please. The garrison unit on Jaruit that now concerns this case, is one of the very Japanese military unit, the character of which I have explained above, and besides, the period this case occurred was just when the unit exhibited very conspicuously that character. The reason being that, as the court already knows the details, the war situation on the Japanese bases in the Marshalls grew suddenly tense since the end of 1943, and after Kwajalein, the most important strategic point in the Marshalls, fell in the early part of February 1944, it turned critical, and the members on Jaruit as well as on the other islands had to combat with all sorts of unfavorable circumstances brought about by the blockade of supplies and communication, without saying every day's fighting, and this demanded maximum cooperation and combination of all members. Such was the situation the garrison unit on Jaruit was confronted with in the early part of February, when they were destined to capture three American flyers, so they treated them according to the international law and humanity desiring to send them to Japan by the earliest transportation. On or about 10 March, as is already evident for the court, Atoll commander ordered secretly Warrant Officer Yoshimura and other two, the defendants now in this courtroom, to kill the American prisoners of war. Though the reason of the order

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was not shown to the defendants, it is a matter of course that they supposed the flyers might have had enough offence to be executed. In Japanese military forces, it is exceptional as well as serious to question the orders. Especially in this case, the giver was an Admiral, the Atoll commander whom his men respected as "The King of Jaruit" or "The Sun of Jaruit", the receivers were mere Warrant Officers and Petty Officers, and critical situations were pending; under such conditions, there was none need for them to hesitate to receive and pursue the order. If they had questioned the order, everyone would have distrusted their thought as soldiers. If they had refused it, everyone would have fallen upon them. Sure enough, they obeyed and pursued the order honestly according to their "nature a posteriori" to obey and observe meekly and immediately whatever orders, if they are from their superiors. And it is clear that they made no fault in pursuing the order, so the atoll commander, when he received the report on the execution from them, only thanked their labour. Really, the defendants conducted mechanically, meekly, faithfully, and tacitly as if they had been tamed domestic animals, only because they had to do so in the military service. When they return to the civil life on some day, I believe they will testify themselves to be owners of independent, noble character by their behavior.

If the court please. When the real fact is as stated, should we still suspect them to have harbour any criminal intent, and therefore is guilty? No, thousand times no. And if we have something remained to be inquired into about this event, no one but the atoll commander, the commander of the defendants, is to be asked to enter, upon consideration of the Japanese forces' character stated at the beginning of this argument. This commander, however, committed suicide respectably more than a month ago, leaving admirable testament, in which he stated rightly that all responsibility about this event should be taken by himself. I don't know whether he meant moral responsibility or recognized himself to be guilty of murder, but it may be useless to examine this point, for he said all responsibility about this event.

If the court please. I believe the principle that punishment cannot be meted when there is no criminal intent, is common among penal laws of all countries. This being real, it must be said since it is previously noted that all defendants in this court harboured no criminal intent, it is absolutely clear that they committed no crime, and are not guilty. Therefore, it is natural that in the Japanese armed forces there are several famous cases in which a man following his commanding officer's order killed a man and his action was not censored.

If the court please, rules are rough as networks, so to apply them to an actual case we must construe the spirit of rules concretely with experienced judgment by means of sound moral consciousness of society.

Thus, in conclusion, I would like to ask the board to give fair, righteous, and impartial consideration to the act and circumstances as presented in this trial, especially to the special character of Japanese forces, giving due regard to the authority of law and justice.

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Here is appended the written argument read by Lieutenant (jg) F. G. Madrigan, USNR, counsel for accused.

The ultimate finding in this case is important not only to the defendants, but to American jurisprudence, the American people and to the world at large of which we are a part.

The issue at first glance appears to be clear and simple: "Are the defendants guilty or innocent of the charges preferred?" Upon examination, however, it will be found that the issue is more complex.

Has the court jurisdiction and further is the body of law or rules on which the court, the charges and specifications are founded legally sound? Before the former can be inquired into, it must affirmatively be shown that the latter exists. The defense has questioned that this has been done in a special plea to the jurisdiction of the court made at the opening of the trial.

Defense reiterates that the SCAP rules on which this trial is founded are legally unsound in that the rules of evidence therein violate every established rule of evidence in American law. In addition the defendants are being tried ex post facts for acts not legally defined as crime at the time of commission.

Without abandoning the position taken at that time, defense wishes to comment on the events of the trial as held.

Evidence and testimony has been produced in open court. The question then arises: Is that evidence sufficient to prove the material elements of the specifications beyond a reasonable doubt?

Were the acts of the defendants such as to be wilful, felonious, malicious, premeditated or unlawful?

The burden rests upon the prosecution to prove the material allegations of the charge. Has it done so?

That the three defendants, Yoshimura, Kawachi and Tanaka executed the three U. S. Navy fliers is not questioned. The testimony has brought out that each one was acting under orders of an officer of flag rank, namely, Admiral Masuda.

Each testified that he had requested that he not be assigned to carry out the execution, but when emphatically ordered, in keeping with their training, they obeyed.

The testimony of Kawachi and Tanaka clearly shows the strong will and iron character of Admiral Masuda. This is corroborated by the two statements of Masuda introduced by the prosecution. Prosecution has offered no evidence to refute the testimony of Kawachi and Tanaka as to Masuda's character.

When first told to execute, they begged off. The Atoll Commander, Admiral Masuda, who called himself "King of Jaluit" and "Sun of Jaluit" said, however, you will carry out the order.

That order was obeyed.

Is it reasonable to suppose that these junior officers would or could question the orders of so high a ranking officer? Also, we must consider the weight carried by the Imperial Rescript which gave a military order the trait of an order from the Emperor.

The actions of Yoshimura, Kawachi and Tanaka were not of their own volition. They were the will of another. They were the will of Admiral Masuda. He so stated in his suicide note, which is in evidence.

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Their actions were under the color of authority. The Admiral's order was supported by the Imperial Rescript. The Admiral could do no wrong.

Can the defendants then be charged with felonious or malicious intent?

It has not been charged nor has it been shown at any time in the trial that the defendants acted in concert or premeditated upon the execution.

As to the defendant, Tasaki.

The prosecution has not shown any overt actions on the part of Tasaki which would sustain a finding of guilty. His statement shows that he was ordered by the Admiral in person to release the fliers to Yoshimura. This is corroborated by the Admiral's statement in the evidence. True, Admiral Masuda told him why he, the Admiral, was giving custody to Yoshimura. It was only in explanation however and in no way placed Tasaki in the status of participant. He had never previously discussed the case nor manifested any overt act in aid of the execution.

Tasaki too was subject to the strong will of Masuda. Was he, a Warrant Officer, to ask an Admiral his purpose; was he to question the reason therefore; was he to question the Admiral's authority; was he to inquire as to the Admiral's reason for secrecy; was he to tell the Admiral his business?

The answer is obviously no.

Defense contends Tasaki's function and part was purely ministerial and as such not guilty of the charge.

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Here is appended the written closing argument read by Lieutenant William P. Mahoney, USNR, judge advocate:

In their arguments on the general features of the case at bar, defense counsel have again questioned the jurisdiction of the commission and have again attacked the sufficiency of the charge and specification under which this trial proceeded. Since their objections are general and not specific, general statements of principle will suffice to answer.

The jurisdiction of the military commission to try offenses against the law of nations derives from the President of the United States, who, as Commander in Chief of the Armed Forces, exercises the power of military government over territories occupied by our country. His representative in the Pacific, the Commander in Chief of the Pacific Fleet, has, as the deputy military governor, conferred specific authority to convene this commission on the Commander Marshalls Gilberts Area. The latter has used this authority to bring to justice the defendants at bar, who have violated the law of nations and the dignity of the United States.

Next, what is a sufficient specification? It is simply one which acquaints the accused with every element of the crime with which he is charged, so that he may prepare an adequate defense. Surely the specification of murder in this case, patterned carefully after the samples set forth in Naval Courts and Boards, meets this requirement. If the specification falls short of that standard, the defense has certainly failed to indicate at what point.

Now we come to the important matter of the substantive law which the defendants have been accused of violating. Our statement of the law should not be too sweeping for an essential element of a just law is that it be sufficiently specific to enable all persons abide by its provisions. In addition, since this is a case of first instance, a pioneer effort to establish the administration of criminal justice in international law, we must not claim too much for our decision, whatever it may be. For since it is a decision of a valid court on an international question, it will stand as the law on this particular situation in the affairs of nations for all future generations, just as the common law is written from day to day by the high courts of the United States and England.

The legal question is, what is the international law on the treatment of prisoners of war? Where is it to be found? For that is the law, if in existence, which has been violated in spirit and in deed by the defendants. The closest thing to statutory law on this subject are the rules of land warfare as laid down in the Geneva Convention, particularly the section on Prisoners of War. The rule is simply stated in Article 4 of Chapter II of the Convention as follows:

"Prisoners of war are in the power of the hostile Government but not of the individuals or corps who capture them. They must be humanely treated...."

It is unnecessary to demonstrate that the killing, without trial or for justifiable cause, of the three American fliers, prisoners of war of the Japanese forces at Jaluit, was a clear violation of the Convention. It may be argued, however, that the Japanese government was not a formal signatory power of the Convention. But as explained in the introduction to the Convention, this contention is completely without foundation; and I quote:

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"Although Japan has not ratified or formally adhered to the Prisoners of War Convention, it has, through the Swiss Government agreed to apply the provisions thereof to prisoners of war under its control, and also, so far as practicable, to interned civilians."

Thus Japan is a contracting party to that part of the Convention applicable to this case. These Japanese defendants, like the military personnel of other nations agreeing to abide by the provisions of the Convention, were bound to observe the Prisoner of War Rules of fair play in their treatment of the three American fliers. This they grievously failed to do by their own admission.

Regardless, however, whether you regard the accused as having violated the Convention or merely the laws of humanity, or both, there is nothing more to say on the fundamental law involved in this case. Since this is an international question on the law on the subject is meager. But it is also plain and to be observed by all nations.

When you get right down to the complexion of the trial, the defendants have only one defense, the obvious one of having acted under orders of a superior officer. They admit the homicides. But they claim they were thus justified. Legal authorities, however, take a much less simple view of the situation; under the law, it is the exceptional instance in which an order from a superior has the magic effect of removing the criminality from an otherwise wrongful act by a subordinate. And it is extremely fortunate that the law is so, for otherwise all kinds of shocking offenses against the law of nations could be perpetrated in the name of military orders. The administration of international justice would be thrown into a hopeless state if a reasonable line were not drawn beyond which a soldier and a sailor, regardless of nationality, may not venture. Judicial authority has clearly drawn the line.

Since up until the present there have been no international courts of criminal law, that have laid down the rules on "orders from a superior as a defense in law", we must go to sound authority to guide us in this pioneer case. The Judge Advocate General, in Court Martial Orders 212-1919, has this to say:

There is no doubt as to the guilt of the accused as to the second charge, the accused taking the stand in his own behalf and admitting the allegations of the specification of the charge, endeavoring to excuse and justify his actions by the serious conditions existing at the station, and that his actions were acquiesced in and in accordance with the orders of his superior officer. THIS HOWEVER DOES NOT CONSTITUTE A DEFENSE. The Judge Advocate then quotes, as his authority, US v. Carr, 25 Fed. Cases 307: "Soldier is bound to obey ONLY THE LAWFUL ORDERS OF HIS SUPERIORS. IF HE RECEIVES AN ORDER TO DO AN UNLAWFUL ACT, HE IS BOUND NEITHER BY HIS DUTY NOR HIS OATH TO DO IT. SO FAR FROM SUCH AN ORDER BEING A JUSTIFICATION, IT MAKES THE PARTY GIVING THE ORDER AN ACCOMPLICE IN THE CRIME."

In another case, directly in point, involving a claim of acting under orders of a superior as a defense to homicide, the Judge Advocate was called on to state the law in a case involving the wrongful killing of a citizen of Nicaragua by a member of the United States forces. The precise defense claimed by the defendants in this case was raised in the Nicaraguan incident and met with the following statement: "In reference to the contention of the accused that he was acting in the performance of duty, it is deemed pertinent to refer briefly to the law pertaining to homicide committed by persons in

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the military service. It is a general rule that a soldier (or sailor) is bound to obey all lawful orders, and all he may do in obeying such lawful orders constitutes no offense as to him. But an order illegal in itself and not justified by the rules and usages of war, or in its substance clearly illegal, so that a man of ordinary sense and understanding would know as soon as he heard the order read or given that it was illegal, will afford no protection for a homicide, provided the act with which he may be charged has all the ingredients in it which may be necessary to constitute the same crime in law." (CMO 4-1929).

But the statement of the law most clearly in point in this hearing is that which is announced in the rules promulgated by the Supreme Command of the Allied Powers for use in war crimes cases. This body of international law, briefly known as the SCAP rules and adopted by this Commission at the direction of the Judge Advocate General of the Navy, has the following provision applicable to the defense raised by the accused: quoting subparagraph (f) of paragraph 16:

The official position of the accused shall not absolve him from responsibility, nor be considered in mitigation of punishment. Further, action pursuant to order of the accused's superior, or of his government, shall not constitute a defense but may be considered in mitigation of punishment if the commission determines that justice so requires.

Long before the first war crimes trial was held and at the time the SCAP rules were written, it was known by those charged with the enforcement of international criminal law that practically every defendant hailed before a military commission would raise the defense of having acted under orders of his superior. They made the above law in order to forestall a paralysis of the administration of the international law on the subject of war crimes. It is both wise and just and shatters with telling force the only prop the defendants in the case at bar have been able to base their defense upon.

The defendants have made much of the iron-willed and supernatural characteristics of the man from whom these orders issued - Admiral Masuda. They have elaborated upon the strictness of the military caste of Japan and the intricacy of the oriental mind. But none of these subjective stabs in the dark, none of this fancy play on the psychology of the situation at Jaluit, detracts from or alters the law of the case. Murder, deliberate and ruthless, has been committed. Criminal law, whether national or international, is necessarily an objective set of rules and all but insane parties are governed by the standard of conduct set out. The Japanese Army and Navy must observe the same rules that the United States fighting man, and the man from Russia and the man from Great Britain must observe. The law is no respecter of individual nations. If it is to be an effective law, it must govern the actions of all nations.

The accused have wilfully put to death, without trial or justifiable cause, three American fliers whom they had imprisoned and later found in the way. Not the slightest hint was given during the four days of testimony of a legal basis for their shocking conduct. Such complete disregard of the laws of nations, particularly the law on the humane treatment of prisoners of war, cannot go unpunished without cancelling what little progress the nations of the world have made toward international order.

The demands of justice, the dignity of the United States and the sacred memory of the Americans cruelly executed at Jaluit, require that fitting punishment be given these defendants.

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When I was ordered by Rear Admiral Masuda to release the three American flyers, I learned for the first time, that the three American flyers were going to be executed. Up to that time I did not know anything about that they were to be executed. From the time when we were newly-enlisted seamen to today, we have been taught that the orders from the superiors must be obeyed, whatever the contents of the orders might be. So, when I got the order from Rear Admiral Masuda, I did no more than carrying it out to release the three persons to Yoshimura.

I had no intent to kill them as well as no malice. All I did was to relay the order mechanically, and let the flyers be released. I am convinced in my heart, that I am utterly innocent. I was only a nominal assistant to the commander of guards. I never did such things as beating or hurting the American flyers.

From: Ensign, IJN, Tadashi Tasaki.
To : Chief Judge

Translated by Lt. Comdr. Paymaster Koze Hirata.
Checked by T/3 Sunamoto and T/3 Watanabe.

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ADDRESS: 340 WEST EVERS, BOWLING GREEN, OHIO PILOT OF
TBM-1C BU NO 24674 FROM VC-53 OFF THE NATOMA BAY ETC...

CC: CAPT.EXEC.....COMMO.....

A true copy. Attest:

Nathan G. Finkelstein

Nathan G. Finkelstein,

Lieutenant Commander, U. S. Naval Reserve, Investigator

TOR/0320

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CWO/LDB

EXHIBIT 5-C

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COMMANDER

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EXHIBIT "6"

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EXHIBIT "7-A(1)"
"7-A(2)"

0000

The Case of Ensign Geransen and two others.

The case in which some natives stated that the said unit had maltreated prisoners of war was actually done by a civilian, TSUTSUMI, and this has led to many rumors and for this we are extremely sorry. On that day TSUTSUMI (civilian) went aboard the KAITSU MARU, which was under the command of MATSUMOTO (civilian later killed in action) and went to BOGORABORAPU Island on some other business, and he learned from the natives there that there were three Americans on REBUJERU Island. He went on his own free will, and attempted to take them into custody. TSUTSUMI stated that the three Americans resisted being taken into custody so he beat them. TSUTSUMI has no knowledge regarding the treatment of prisoners of war. After the American prisoners were transferred to the custody of the officer-in-charge of prisoners of war, we believe that they received no such treatment as stated above, but since Ensign TASAKI (Warrant Officer at that time) main duty was commander of the special corps and also was the officer-in-charge of the prisoners, he was not able to remain in the vicinity of the prisoners all the time. Furthermore, five of six guards who were assigned to guard the prisoners were killed in action, thus we could not complete the investigation. Although there might be a suspicion that the guards might have maltreated the prisoners, we have interrogated the one guard who was on duty and he is still living, but we have no knowledge of what happened when the other guards were on duty.

The following is the complete report on the prisoners treatment, from the time they were received and to the time when they were killed and cremated.

1. Taking into custody.

As it was explained previously, when the KAITSU MARU, commanded by MATSUMOTO (civilian) sailed to BOGORABORAPU Island on February 9, 1944 on official business, they were told by the natives that three Americans had drifted ashore on REBUJERU Island. By their own free will they went to capture them and brought them back. As soon as Lieutenant TWANAMI (Ensign then) and who was assistant to the officer of the day on that day, received the word of the arrival of the American prisoners of war on EMIDJI Island, he sent the master-at-arms to the pier to receive them and had him quarter the prisoners in the radio receiving station's building. Thereafter, conforming to our regulations we had six enlisted men (Navy or Army) on guard daily, assigning two guards to one prisoner in order to protect the prisoners as well as to prevent them from escaping. After the interrogation was completed the prisoners were transferred to an air raid shelter which was located near the ocean side.

2. Interrogation.

During the first several days the interrogation of the prisoners were carried on at night by the Battalion Commander (Major FURUKI, who interrogated twice) and by Lieutenant TWANAMI (Ensign then, who interrogated several times). The questions asked during the interrogation were their ranks, names, unit attached to, movements, situation of KWAJALEIN and MAJURO, landing tactics of American forces, etc. Thereafter they were questioned once or twice whenever questions came to our minds. After completing the interrogation we were merely waiting for the day when we could ship them to JAPAN. We were very much pleased with their frank answers to our questions.

3. Daily Routine.

In the day time, because we were constantly under air attack, the prisoners were in the air raid shelter most of the time. At night they took a walk in the

EXHIBIT - "7-B (1)"

vicinity when they so desired. As for the feed, they were fed the same as the Japanese, however they had no appetite for rice and wheat but they like the biscuit, canned meat and vegetables very much.

4. Execution.

(1) Reason. KWAJALEIN had been already occupied by the Americans. Day by day the general trend of the war was getting grave for the Japanese, therefore we decided that it was impossible to find any way to send the prisoners of war back to TRUK or to JAPAN, in spite of our earnest desire to do so.

(a) At that time the general tendency of the war was very disadvantageous to us and the men of our garrison were all desperate and very nervous. The commanding officer was determined to shoot any member of the garrison who dared to escape. The commanding officer had come to the decision that the prisoners attitude was to attempt to escape during the night or during a bombing.

(b) An American invasion on JALUIT was imminent. Every day the enemy's air attacks were so fierce we began to realize it was difficult to continue detaching guard to protect the prisoners and to keep them provided.

(2) The Order.

Captain MASUDA, the commanding officers of the JALUIT Defense Force and who was also the commanding officers of the Naval Garrison Unit (which was in charge of the handling of the prisoners) summoned Warrant Officer YOSHIMURA during the daylight on 10 March and gave him a secret order which read: "You will secretly execute the three prisoners of war tonight".

(3) The Undertaking of the Execution.

Warrant Officer YOSHIMURA requested that Warrant Officer KAWACHI (Engineer) and Chief Petty Officer TANAKA (Paymaster) to assist him in the execution and his request was granted. A truck was made available at 1000 (American time 0100) and Chief Petty Officer (TANAKA (Paymaster) relayed the order of execution and sent the prisoners and executioners to the crematorium. Somewhere near the crematorium the three prisoners were allowed a short reprieve and they held their hands together and prayed for awhile. Then the three executioners assigned to the three prisoners blind-folded the prisoners and made them stand up. Each executioner fired one round at the head of his prisoner with a pistol. All prisoners fell but were still writhing in pain. The executioners, Warrant Officer YOSHIMURA and Chief Petty Officer TANAKA, feeling sorry to make them suffer for such a long time, fired another additional shot at the heart of their respective prisoner. Warrant Officer KAWACHI confessed to have swung his sword at his prisoner.

5. Cremation.

After completing the execution the executioners ordered KATO, a civilian attached to the Navy (CB), to cremate the bodies at the crematorium. Among these who assisted in cremating of the bodies is SASAKI, a civilian, who is still living at the present. Furthermore, on the following day part of their bones were picked up and were buried in their graves.

6. Personal Belongings of the Dead Prisoners.

On the 21st and 23rd of September this year, the following items were collected at the crematorium: Two buckles, one hob-nail (made in U.S.A.) The wristwatch, rings etc. which civilian TSUTSUMI and others took from the prisoners were returned at the investigation and are now in the hands of the U. S. Navy.

(Signed) MASUDA NISUKE

EXHIBIT - #7-B(2)

EXHIBIT "B-A"

0105

15 minutes - 100 mtrs.

Do not mention -

Yoshimura.

Burial Party
appeared to be
gristal wounds
Blood around hearts & faces.

Exp. #8

at head

Kawachi. -

~~Yoshimura~~ ~~seen one shot~~
& another at head

Fire - missed vital spot, pulled
trigger - misfire - Stopped heart

Masuda
Pre-trial
Statement

"I frankly
confess etc."

In Kawachi
suicide note of
Adm. Masuda

0107

During the period of 50 days which has elapsed since the end of the war I have carefully and deliberately considered the proper time and place to die. For the sake of my country, I can see no difference between immediate death, and death later thru execution by the United States Armed Forces, after being called in connection with the handling of the American prisoners of war by the Japanese forces on JALUIT. My being able to return to JAPAN alive is the last thing to be expected. My though all lies with my JALUIT DEFENSE GARRISON and if I should wait to be called in for investigation by the United States Armed Forces, I have a fear that it will disturb and delay the way for my men to return to JAPAN.

At this evenings' conference with the United States Forces I am ready to present my reports to them in which I frankly confess the truth with this the worries and anxieties of every officer concerned in this incident is ended. And now is the time for me to die.

To the officers concerned in this matter I have already shown my resolution and report, and now I have no apprehension that my death will cause turmoil and trouble among my men.

JALUIT is, the place where I have struggled for three (3) years, and I believe the place most fitted for me to die.

Up until 1500, the 5th of October ~~approximately~~ I have had more than 400 of my men killed in action, and the other day I was able to send back to JAPAN 88 sick and wounded men on the HIKAWA MARU. Now there are 1815 men including myself remaining here. During the two (2) years of hard struggle for existence it was lucky that we were not confronted with the misfortune of having a single man die from starvation.

As for myself, I am satisfied with my period of duty on JALUIT for I have been respected and served faithfully by my men as the "King of JALUIT" or the "Sun of JALUIT".

Now, on this soil, surrounded by these men, I will die even though I cannot receive the honor of being killed in action. I feel there is no greater glory.

*Statement by Rear Admiral Masuda,
I. J. N.*

Exhibit "8-B"

E 9A

My name is Tsugio Yoshimura, Lieutenant (JG) IJN. During February and March 1944 I was attached to the 62nd Garrison Unit on Enidj Island, Jaluit Atoll. About the middle of February 1944 three American fliers were brought to Enidj from Rabu Jeru Island, where they had been captured by Riichi Tsutsumi and some other CB. The three American fliers were brought to the Naval Unit Headquarters and questioned. They were kept in an air raid shelter under guard for about a month.

On March 10, 1944 Admiral Masuda called me to his quarters and gave me orders directly to execute the three American fliers about 10 o'clock that night. At first, I refused to do it ~~by myself~~, so the Admiral gave me two aides to help carry out the execution. I then went back to my quarters and selected Ensign Kawachi and Warrant Officer Tanaka to assist me in the execution. I explained to both of them that the execution should be carried out very secretly, and to be sure, when they came to bring along a pistol and sword with them. I instructed them to meet me at the ~~headquarters~~ ^{ready of headquarters} about 9 o'clock that nite. After selecting these two fellows, I reported back to the Admiral that I had selected Kawachi and Tanaka and desired his consent to use them, to which he agreed. Following this I checked with Ensign Tasaki about releasing the fliers to me that night.

At 9 O'clock I met Kawachi and Tanaka at headquarters. We then secured a truck, picked up the three American fliers at the air raid shelter and took them to a cemetery on Aineman. After we arrived at the cemetery where the execution was to take place, the three Americans were allowed a little freedom. During the time they were free I saw them kneeling and praying to God and in deep meditation. When they had finished praying I handed each of them a towel to blindfold them. ~~We then walked about a hundred meters from the truck, on the way, we blindfolded them and shot all three of them to death.~~

My first shot was unsuccessful and the flyer was suffering, so I shot another round through his heart. The one that Kawachi had shot was also suffering so he speared him with his sword. The three of us had all fired pistols and had aimed at their heads and didn't kill them at first, so it was necessary for Tanaka and I to fire a second shot through their hearts. After the fliers had died, six men constituting the burial party arrived. I turned everything over to them and returned to headquarters, reporting to Admiral Masuda that we had carried out his orders.

I have made this statement freely and voluntarily. No threats or promises have been made to me by anyone in regards to any of the subject matter contained therein, and no force was used to compel me to make any of the said statements.

吉村次夫

Kaguo Katanaka T/S HHS.
Witness

EXHIBIT "9-A"

私は大日本帝國海軍中尉吉村次男です

昭和十九年（一九四四年）二月より三月迄、ヤルット環礁、ナメジ島の

第六十三警備隊に配属された

昭和十九年三月中旬ラバウル島より米國航空士三名がナメジ島に送
られて来た。彼等はラバウル島で堤利一他數名の軍屬に捕は
れた者である。そして海軍警備隊本部へ送られ訊問された後、
約一ヶ月間防犯壕の中に留置された。

EXHIBIT-9-BU

昭和十九年三月十日に耕田少將は私を直接本部に呼び其の晩の十時
頃米國航空士三名を死刑にせよと命じた。私は最初私を執行
する事を断つた。少將は二名の助午の使用を許せよと云い、
宿舎に歸り河内少尉と田中准尉を二人に選んで、私は死刑を秘密に行ふ
事を二人に説明した。そして拳銃と津力を志し、二人は其の
夜九時頃本部防犯壕に會ふ様に指圖した。此の二人を選んだから
少將へ河内と田中二名を選んだ事を報告し彼の許可を得た。
それから私は田崎少尉に其の晩米國航空士三名を私に引渡す
事を連絡した。

九時に本部で河内と田中と會ひ貨物自動車に乗り防空壕に行き
米國航空士三名を乗せ、アイネマンの墓地に連れ行つた
墓地に着てから彼等に或る程度の自由を與へた、其の間彼等は
跪ぐに神に祈り何か深く考へて居た、祈りが終つてから、私は目隠し
をするタオルを一枚づつ渡した、用ゐるが貨物自動車から約百米
離れた内庭側に連れた竹を、彼等に目隠しを付けてから三名を
銃殺した。

我々三名は米國航空士の頭部を狙つて射撃した。

EXHIBIT
"9-BUS"

私の最初の一發は失敗したが、航空士は苦るしんで居たので、もう一發
心臓を狙つて射つた、河内も失敗したので航空士は苦るしんで居た、彼
は軍刀で突刺した、田中も失敗したが心臓を狙つて射つた、
航空士が死んでから埋葬者が六名到着した、私は後始末、全部
まかして、本部に歸り村田少將に命令通り刑を執行した事を
報告した。

私は右の記事を恐迫、買収又は強制的に書かされたのではない、
自發的に書きた。

吉村次夫

証人 Tetsuo Matsumoto 75 HUS X

10-A

My name is Mamoru Kawachi, Ensign, IJN. During February and March 1944 I was attached to the 62nd Garrison Unit of the Imperial Japanese Navy at Eniwetok Island, Jaluit Atoll.

On the night of March 10, 1944, Yoshimura came to my quarters and told me that he had received orders to execute the American fliers and asked me to come along. I told him that I would help him. Then Yoshimura told me that if I was going to help with the executions, to be at the headquarters at 2130, and to be sure and bring a pistol and sword. About 2130 we got a truck, it was one of my trucks. I had ordered it to be there at 2130. The driver was private first class Mikura. Tanaka and I rode on the back of the truck and Yoshimura rode with the driver. We went to the area where the flyers were being held and proceeded to put them on the back of the truck and drove about four kilometers to Aineman. There we stopped the truck and instructed the driver to stop any other vehicles that might come along and keep them away. We then took the flyers to where the cemetery is located about a hundred yards from where the truck was parked on the road. We blindfolded the flyers before leaving the truck and their hands were crossed and tied in front of them. At the place of execution I was standing about 2 yards in front of one of the American fliers. The distance between each flyer was two or three yards. The fliers were all standing. We received the order from Yoshimura to shoot in the head and upon his order we all fired at once. My bullet struck the flyers head and glanced. I shot again and the gun failed to fire, so I then drew my sword and ran it through his heart. I FELT SORRY FOR THE FLYER

The only ones present at the execution were Yoshimura, Tanaka and myself. About ten minutes after the executions had been carried out the burial party consisting of Kato and one more man of the GBs came to take care of the bodies. I told them to take care of the burial of the fliers. The three of us then returned in the truck with Mikura and reported to the AtCom that we had carried out the executions. Prior to the execution I had never seen the American fliers.

I have made this statement freely and voluntarily. No threats or promises have been made to me by anyone to make any of the statements contained herein, and no force was used to compel me to make any of the said statements.

Mamoru Kawachi

Kazuo Hatanaka T/S AHS.
Witness

EXHIBIT "10-A"

0112

私は大日本帝國海軍少尉 河内 護三

私は昭和十九年（一九四四年）二月廿三日逃マルト環礁タメジ島の
海軍第六十二警備隊に配属されました。

EXHIBIT "10-8 (1)"

昭和十九年三月十日の夜、吉村が私の宿舍へ来て米國航空士の死刑
執行命令を受けた旨を述べ、手傳つて呉なふと言つた。我々承諾した
吉村はそれでは拳銃と軍刀を忘れた様に入れた。そして本部に
三十分頃来る様と言つた。私は私の係の貨物自動車を手三時
三十分頃本部に来る様になり、^{田中}の命じた運轉手は三倉一等兵で
あつた。湘南と私は後部に乗リ、吉村は運轉台に乗つた。我々は
航空士が留置されている所へ行き、貨物自動車に彼等を集めて約
四軒離れたアイネマンへ行つた。そこで貨物自動車を止めて、運轉手
に若し他の車輛が来たら止めてこちらへ来なう様に命じた。それから
航空士に目隠を付け、腕を縛つて約百米離れた墓地へ連れて行つ
た。死刑にする時、米國航空士の前、約二メートル離れた航空士は
皆立って居た。吉村は頸部を射撃し、と命じた。

米國航空士は、シールドカシールドの間隔を以て止つて居た。
吉村の号令と同時に、^{急所を突いて死なせようと思つた} 我は弾丸はすれなかつた。もう一發射つたけど不發であつたから、軍刀で彼の心臓を突刺した。

死刑場に居たのは、私と吉村、田中であつた。死刑執行後、約十分後
加藤他軍屬へが死體の所置に来た。^{吉村は} 我は彼等に埋葬を命
じた。我々三人は三倉の運轉する貨物自動車に歸り、環礁司令
に刑の終了を報告した。米國航空士の死刑前、私は彼等を
見た事が一度も無かつた。

私は右の記事を強迫、買収、又は強制的に述べたのではなく、自發的
に申し上げました。

海軍少尉 川地護

証人 *Kayus Shatamaki 73 HUS*

EXHIBIT "10-B(2)"

5

0114

6 11-A

My name is Toshimoto Tanaka, Warrant Officer, IJN. During February and March 1944 I was attached to the 62nd Garrison Unit of the Imperial Japanese Navy at Enidj Island, Jaluit Atoll.

During the early part of February 1944 three American fliers captured on Lebzal or Rabuheru Island were brought to Enidj Island. I saw the fliers about three days after they were brought to Enidj. The next time I saw them was about March 10, 1944 when I went over to execute them. At that time Yoshimura came to me and said that he had received orders from the atoll Commander to execute the fliers and ^{230442P} ~~request~~ my assistance in handling the execution. ^{At first I refused but later} I agreed to help him and arranged to meet him that nite at Headquarters about 2100. About 2300 that nite while everyone was sleeping Yoshimura, Kawachi, and I took a truck and went to pick up the fliers. The truck and driver were left back on the road while doing so. We then took the fliers to the truck, put them on the back end, where Kawachi and I also rode guarding them. Yoshimura rode in front with the driver. After nearing the spot closest to the cemetery as the road could bring us, we got out and marched the prisoners to the cemetery, leaving the driver and truck to wait for us. The Admiral had previously instructed him that the executions must be carried out as secretly as possible. After arriving at the cemetery we allowed them a few minutes of rest and then executed them.

The fliers were lead to the place of execution where they were required to stand blindfolded with their hands tied, I think, in front of them. I stood about a yard and a half in front of the ~~first~~ ^{first} flier. The fliers were separated by about two yards and a half. Yoshimura stood in front of the ~~second~~ ^{second} flier and Kawachi in front of the ~~third~~ ^{third} flier. We fired upon the issuance of a command by Yoshimura. After firing at the flier in front of me, I saw that he was not dead and in order to kill him, I fired a second shot through his heart. There were just Yoshimura, Kawachi and myself at the execution. A burial party led by Kato came a few minutes afterwards. I instructed Kato to do away with the bodies.

^{YOSHIMURA}

I have made this statement freely and voluntarily. No threats or promises have been made to me by anyone to make any of the statements contained herein, and no force was used to compel me to make any of the said statements.

田中 稔基

Kayuo Satomoh TB 17115
Witness

EXHIBIT "11-A"

0115

私は大日本帝國海軍^{主計二}兵曹長田中稔^二基です
昭和十九年（一九四四年）三月から三月迄の間ヤルト環礁、ヌメジ島の
第六十二警備隊に配屬されて居ました。

EXHIBIT
"11-800"

昭和十九年の三月上旬にレガセル島又はラファセル島よりヌメジ島に米國
航空士三名が送られて来た。彼等は右の島で捕はれた者である。
はじめて見ましたのはヌメジ島に来てより三日目であった。次に見たのは
昭和十九年三月十日頃彼等を死刑にする時であった。其の日吉村が
私の所へ来て、吉村は環礁司令^{司令の命である}から米國航空士を死刑にせよと
命令を受けたから、私は手傳つてくれと言った。私に承諾し、翌夜
九時頃水部が會ふ様に相談した。九時頃皆寝る所に私は
吉村、河内はトラックに乗って航空士を連れに行つた。其の間トラックに
運轉手は道路で待つて居た。それから航空士を連れ来てトラックの
後部に乗せた。私と河内^{河内}は後部に乗り彼等の番をとり、吉村は
運轉台に乗った。墓地の近くトラックを止め運轉手を道路で待つた
一、捕虜を墓地へ連れ行つた。少將は吉村に死刑をなすべく
秘密に執行する様命じて居た。墓地に着いてから捕虜に一寸休
息を與へてから死刑にいた。

航空士を死刑場へ連れ行くの目隠を付け腕を縛り（前に縛
つたと思ひます）また、私は航空士の前約一メートル半程離れて居
ました。航空士は約二メートル半位の背隔で立って居た。
私は左側の航空士の前に立ち、吉村は真中で、河内は右側に立ち
吉村の号令と同時に射撃しました。私は前の航空士を撃つたけど
まだ生きて居たので、もう一發心臓を狙って射つた。死刑を執行した
時、其の場所には私と、吉村、河内の他誰も居ませんでした。
二、三分後加藤の指揮して来た埋葬者が到着した。私は
加藤に死體を處置しろと指圖した。

右の記事は恐迫買収、又は強制的に述べたのではなく自發的に
申上げたものです。

田中稔基 証人 Tetsuo Nakamura to FBI

EXHIBIT
"11-B(2)"

2

Sub 12-A

My name is Tadashi Tasaki, Ensign, IJN. During February and March 1944 I was assistant to the ~~chief guard in charge of prisoners of war~~ on Enidj Island. ~~OFFICER IN CHARGE OF THE GARRISON POLICE (T.T)~~

During the early part of February 1944 three American fliers were brought to Enidj from another island on the Atoll. When they arrived CPO Kodama, who was later killed in action, went to get the fliers and took them to the air unit headquarters. At that time I ordered Kodama to assign appropriate guards for the prisoners.

On the afternoon of March 10, 1944 the Admiral sent a runner to me and told me to report to the admiral. At this time the admiral informed me that I should very secretly release the fliers that night to Lt. (JG) Yoshimura as the American fliers were going to be executed that nite. Later that day Yoshimura came to my quarters and said that the Admiral had told him to see me in order to secure the release of the prisoners, the three American fliers, to him. At this time I arranged for Kodama to release the prisoners to Yoshimura. Kodama later reported to me that he had made such arrangements and that the American fliers were released that nite to Yoshimura, Kawachi and Warrant Officer Tanaka.

I have made this statement freely and voluntarily. No threats or promises have been made to me by anyone to make any of the statements contained herein, and no force was used to compel me to make any of the said statements.

田崎 正

Kaguo Satomah T/3 IJN.
Witness

EXHIBIT "12-A"

0118

私は大日本帝國海軍少尉田崎正です

衛兵副司令 T.T

昭和十九年（一九四四年）二月より三月迄メジ島の捕虜係將校
の職務をしい居ました

昭和十九年の二月上旬マールト環礁中の離島からメジ島に米國
航空士三名を送りし來た。彼等が到着し、から兒玉兵曹長
（後戦死）が迎へに行き、彼等を航空隊本部に連れ行つた。
其の時私は兒玉に適當な歩哨を配置する様命じた。

昭和十九年三月十日の午後、少將は私に出頭し、と傳令を送つた。
其の時、少將は今夜米國航空士を死刑にするのだから吉村中尉に
秘密に引渡す事を命じた。しばらくして吉村が私の宿舎に來て
少將の命令によつて米國航空士三名を引渡す様、私に連絡に來た。
此の時私は吉村に捕虜を渡す事を承知した。其の後兒玉が
準備をし、身夜捕虜を吉村、河内、田中兵曹長へ引渡した事を
私に報告した。

EXHIBIT
"12-B(1)"

→

右の記事は恐迫買収又は強制的に書述べたりではなく自發的に申上げたものです。

田崎 正

証人 *Kyoko Shalund* 1/3 17/15

EXHIBIT
"12-B(2)"

8

0120

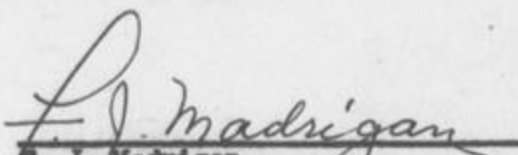
U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

December 14, 1945.

I hereby acknowledge receipt of two (2) copies of the record
of proceedings of the trial of:

Rear Admiral Nisuke Masuda, IJN;
Lieutenant (jg) Tsugio Yoshimura, IJN;
Ensign Mamoru Kawachi, IJN;
Ensign Tadashi Tasaki, IJN;
Warrant Officer Toshimoto Tanaka, IJN,

by Military Commission held December 7 to 13, 1945.


F. J. Madrigan,
Lieutenant (jg) USNR,
Counsel for Accused.

In reply refer to Initials
and No.

Op22D-VCF

Serial No. 490P22

NAVY DEPARTMENT

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

WASHINGTON 25, D. C.



18 APR 1946

FIRST ENDORSEMENT on
Office of JAG Record of
Proceedings, Rear Admiral
Nisuke Masuda, I.J.N.; Lt.
(jg) Tsugio Yoshimura, I.J.N.;
Ensign Mamoru Kawachi, I.J.N.;
Ensign Tadashi Tasaki, I.J.N.;
Warrant Officer Toshimoto Tanaka,
I.J.N., OO-Masuda, Nisuke/A17-20
I (3-18-46) dmb dtd 15 April 1946.



From: The Chief of Naval Operations.
To: The Judge Advocate General of the Navy ✓
Subject: Record of Proceedings of Military Commission
at Naval Air Base, Kwajalein, Marshall Islands
in the cases of Rear Admiral Nisuke Masuda,
I.J.N.; Lt. (jg) Tsugio Yoshimura, I.J.N.;
Ensign Mamoru Kawachi, I.J.N.; Ensign Tadashi
Tasaki, I.J.N.; and Warrant Officer Toshimoto
Tanaka, I.J.N.

1. Returned.

P.D. Gross
P.D. GROSS,
By Direction.



0122



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

OO-Masuda, Nisuke/A17-20
I (3-18-46) dmb

15 APR 1946

The proceedings, findings, and sentences in the foregoing military commission case of Rear Admiral Nisuke Masuda, I.J.N.; Lieutenant (junior grade) Tsugio Yoshimura, I.J.N.; Ensign Mamoru Kawachi, I.J.N.; Ensign Tadashi Tasaki, I.J.N.; and Warrant Officer Toshimoto Tanaka, I.J.N., tried in joinder, and the actions of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-22) for information.

O. S. Colclough
O. S. COLCLOUGH

Judge Advocate General of the Navy.



15 APR 1946

0123

DEPARTMENT OF THE NAVY
Office of the Judge Advocate General
Washington 25, D.C.

15 APR 1946

GO-Namada, Niwaka/417-20
I (3-18-46) dnb

The proceedings, findings, and sentences in the foregoing military commission case of Rear Admiral Niwaka Namada, I.J.N.; Lieutenant (Junior grade) Tenguji Yoshimura, I.J.N.; Ensign Mamoru Kanashi, I.J.N.; Ensign Tadashi Tanaka, I.J.N.; and Warrant Officer Yoshinoto Tanaka, I.J.N., tried in joinder, and the actions of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-22) for information.

O. S. GILGLOUGH
Judge Advocate General of the Navy.

*Namada
Yoshimura
Kanashi
Tanaka
Tanaka*

0124

DEPARTMENT OF THE NAVY
Office of the Judge Advocate General
Washington 25, D.C.

OO-Masuda, Hiroko/ALT-30
I (3-18-46) dnb

15 APR 1946

The proceedings, findings, and sentences in the foregoing military commission case of Rear Admiral Hiroko Masuda, I.J.N.; Lieutenant (junior grade) Tsugio Yoshimura, I.J.N.; Ensign Mamoru Kawachi, I.J.N.; Ensign Tadashi Tanaka, I.J.N.; and Warrant Officer Toshinote Tanaka, I.J.N., tried in joinder, and the actions of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-32) for information.

O. S. GOLDSLOUGH
Judge Advocate General of the Navy.

0125

NAVAL COMMUNICATION SYSTEM

DRAFTED BY: Sgt. J. G. Delpine, USN (Ret.) FILE NO. 00-Masuda, Hideo/ ROOM NO. 3548 DATE 18 March 1946
Colonel J. Sweeney, U.S.N.C. AB-20
Please leave this space clear

FROM: SECNAV (JAG) WASH DC
 TO: COMER MARIANAS
 INFO: CinC Pac & POA

181615
 (date/time group) (GCT)

PRECEDENCE

- ☐ PRIORITY
☒ ROUTINE
☐ DEFERRED
☐ NIGHT LETTER

UNLESS CLASSIFIED
RESTRICTED
 WILL BE CLASSIFIED
PLAIN

Unless otherwise indicated, this dispatch will be transmitted with Deferred Precedence.

TEXT:

RESTRICTED

RE RECORD OF PROCEEDINGS MILITARY COMMISSION TRIAL REAR ADMIRAL
 HISUKE MASUDA ET AL CONVENED BY COMER MARSHALLS GILBERTS AREA X
 ADMIRAL MASUDA'S SUICIDE NOTE REFERRED TO AS EXHIBIT SA NOT RECEIVED
 WITH RECORD X PLEASE FORWARD FOR COMPLETION OF RECORD X

0126

1) Petition for commutation of Enb
KAWACHI + W.O. TANAKA + LI
YOSHIMURA.
2) Forwarding letters

0127



0 128

San Francisco

To: the Director of War Criminals

0129

AL6-2/FF12/
13-JDM-gmr

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

OCT 31 3 40 PM 1946

Serial: 13302

28 OCT 1946

From: Commander Marianas.
To : The Secretary of the Navy (JAG).
Via : Commander in Chief, Pacific Fleet.

Subject: Military Commission case of YOSHIMURA, Tsugio, Lieutenant (jg), IJN; KAWACHI, Mamoru, Ensign, IJN, and TANAKA, Tashimoto, W. O., IJN, approved respectively by the convening authority, Commander Marshalls Gilberts Area and the reviewing authority Commander-in-Chief, U. S. Pacific Fleet on 19 December 1945 and 8 March 1946.

Enclosure: (A) Original Petition of Lieutenant (jg) Sawaaki Sakuda, IJN, dated October 18, 1946, in behalf of the subject named convicted Japanese War Criminals.
(B) Two copies (one for CinCPac) English translation of Enclosure (A).

1. Enclosure (A) is forwarded for the consideration of the Secretary of the Navy in connection with his review of and action on the subject case.

C. A. Pownall
C. A. POWNALL.

0130

October 18th, 1944.

From: Lt. (C.G.) Sawaki Saburo, the 62nd Defense Garrison,
Director of War Criminals on Guam.
Subject: Petition on the Commutation of -
Lt. Yoshimura, Snagon Kawachi, and W.O. Tansaka.

These three officers have got death penalties (hanged) as a result of War Criminal Trial on Enjalein for the reason that they had executed three American fliers in March 1944 by the order of the late admiral Maeda Hideo, the commander of the 62nd Defense Garrison.

Then, in this blockade, I hear of the progress and the result of the trials on Chichi Jima, I cannot but admire the fair trial, based on humanity and justice, on this island, and on the other hand, think that the death sentence of Yoshimura, Kawachi, and Tansaka whom I had shared with pleasure and pain on Jalut Atoll, had been a little too cruel compared with that of Chichi Jima.

Mankind are born legally equal. Is it not legally incorrect that men should be handled by bitter law in one place, and by generous one in another?

In March 1944, the late Admiral Maeda Hideo, who considered it as a great disadvantage to keep watch on the three prisoners of war, when the situations of the Marshall Islands had become rapidly critical, decided to execute three of them.

One day at night in March '44, admiral secretly summoned Yoshimura (W.O. at that time) and ordered that the prisoners be executed, telling to choose two men for his aid. Thereupon, Yoshimura chose Kawachi (W.O.) and Tansaka (C.P.O.)

They executed three fliers by admiral's order.

While they were being tried on Enjalein, an American lawyer told them that because what they had done had been by order, they would never get severe penalty.

But the fact was, contrary to the anticipation of the lawyer and our hopes, they were given death.

According to the newspaper of Enjalein at that time, and to the prosecution, it seemed emphasized that admiral Maeda collaborated with them.

Admiral, however, stated in his will very clearly that he had ordered the execution, and it is neither possible nor reasonable that an admiral (captain at that time) should have collaborated with a warrant officer, instead of giving order.

Isn't the military orders universally absolute throughout any armed forces of the world?

I have never lost hope that they would ever get commuted, and have waited for the news these ten months in vain.

While I am convinced that the U.S. authorities are already taking it into consideration, yet I am afraid that they would never get it after all. I can't help appealing your excellency on their execution, being afraid to away your excellency by my impoliteness.

0131

BEST COPY AVAILABLE

Please sympathize with me, and do me your excellency's favour of taking care that they be executed as quick as possible.

I am convinced that they had executed the prisoners of war, because they could not disobey the order as men of Japanese armed forces, without the least malice, and with the same sense of justice as of legal executors.

Now, I should like to write about their characteristic merits in order to prove that it was true.

I. Lieutenant Yoshimura:

He was a very gentle and trustworthy fellow. In August he was one of the most beloved by his seniors and juniors. He had been in charge of 25 millimeter anti-aircraft machine-guns from the beginning of 1944. In July '44, when the commander was to be relieved, because of illness, of the third anti-aircraft artillery group on Eniwetok Island, about five miles south-east of Iki, the main island, Admiral did not hesitate to assign him to it. It was because he had acknowledged that he was really fit for it.

I remember Admiral say, "The commander of Eniwetok anti-aircraft artillery group can only be taken over by man of sincerity and love as he is."

The island was isolated. It had been air-raided as mercilessly as had been Iki, and at that time everybody on the Atoll was growing weak day by day for want of food.

As a commander there he deserved our anticipations; he encouraged his men, consoled them, and when he was seriously wounded in October, he, instead of retiring, took charge with bandage all over. It was a scene which could not be beheld without tears of thanks and pity.

The fact tells how earnestly he tried to deserve Admiral's trust, and how he loved his men.

I think the pious Admiral Maeda had chosen him for execution of Eniwetok, because he wanted them executed by the best man possible.

Yoshimura would never have executed the order with malicious intent.

II. Ensign Kawachi:

Kawachi must be estimated of his merits as highly as is Yoshimura.

From March 1945 the U.S. forces began evacuation of natives with ferocity. Against Iki Island on the south-west pass, they tried with breathless succession of propaganda, air-raid and bombardment.

Admiral thought that at this critical moment in order to prevent natives from escape, they should be governed with love, and he sent Kawachi to take over the island.

There had been some twenty soldiers of the army. To take over army soldiers as a naval officer would have been hardly possible if he had not been upright-minded and fair.

Major Furuki and other officers who had inspected the island would praise that the soldiers, civilians and natives were united by his devotional love. Unfortunately, one day at night in July nearly all except a few old natives were evacuated by the U.S. warships.

However, on my visit there, I witnessed him take care of these poor blind old natives with unflinching affection to the end of the war.

Probably these blind couple and a few others that remained there would best

prove his virtuous character,

III. Warrent Officer Tanaka:

I had been very familiarly acquainted with him since he had got promoted to an officer.

He was a possessor of rare brilliant intellect and the sense of justice.

He helped paymaster Nakamura since April 1944, when the provisions had been running rapidly short, with smile, and unfading hope and with a wholehearted devotion to his senior.

That no one of Jaluet complained of cooks largely depends on Tanaka's devotion for his work.

One day when the garrison was busy preparing for the invasion of the U.S. forces which was considered imminent, I was deeply moved by his noble spirit as the paymaster told me "Tanaka says, 'In case of battle send me to the hardest position, and I would be willing to go.'"

Though he was an officer of cock's-mate, he was sent to take over about fifty soldiers on Atkinson Island at the time as Kawachi, when escape of natives had become frequent on the Atoll.

At that time, besides the ability of running people, love and sincerity for them were requested of the commanders of those islands, because, then, nobody could govern natives as well as men and civilians without this two-elements.

To send Tanaka, an officer of cock's-mate, however, had been exceptional, which shows how highly Admiral Maeda esteemed his merits of character. I was told that Major Furuki, the battalion commander, who had known him well, had often recommended him as the commander of the island. He had taken over it with justice and love to the close of the war as was expected of him.

Soldiers, civilians and natives loved him as they do their parents.

I have often heard of natives who had been once working by his charge as cooks on Iaij before the air-raid, and who returned their native islands after it had been commenced on Iaij, asking of every Japanese they met, "How is Tanaka?" and, "He is very good man indeed."

Seisaku Seimada,

War Criminal Seimada.

October 18th, 1946.

From: Lt. (s.g.) Sawaaki Sakuda, the 62nd Defense Garrison.
To : Director of War Criminals on Guam.
Subject: Petition on the Commutation of -
Lt. Yoshimura, Ensign Kawachi, and W.O. Tanaka.

These three officers have got death penalties (hanged) as a result of War Criminal Trial on Kwajalein for the reason that they had executed three American fliers in March 1944 by the order of the late admiral Masuda Nisuke, the commander of the Jaluet Defense Garrison.

When, in this stockade, I hear of the progress and the result of the trials on Chichi Jima, I cannot but admire the fair trial, based on humanity and justice, on this island, and on the other hand, think that the death sentence of Yoshimura, Kawachi, and Tanaka whom I had shared with pleasure and pain on Jaluet Atoll, had been a little too cruel compared with that of Chichi Jima.

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While they were being tried on Kwajalein, an American lawyer told them that because what they had done had been by order, they would never get severe penalties.

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While I am convinced that the U.S. authorities are already taking it into consideration, yet I am afraid that they would never get it after all. I can't help appealing your excellency on their commutation, being afraid to annoy your excellency by my impoliteness.

0134

BEST COPY AVAILABLE

Please sympathize with me, and do me your excellency's favour of taking care that they be commuted as quick as possible.

I am convinced that they had executed the prisoners of war, because they could not disobey the order as men of Japanese armed forces, without the least malice, and with the same sense of justice as of legal executors.

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Yoshimura would never have executed the order with malicious intent.

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I have often heard of natives who had been once working by his charge as cooks on Imij before the air-raid, and who returned their native islands after it had been commenced on Imij, asking of every Japanese they met, "How is Tanaka?" and, "He is very good man indeed."

Sawaaki Sakuda,

War Criminal Stockade.

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

c/o Fleet Post Office
San Francisco, California

15 OCT 1946

RECEIVED

OCT 23 1946

OFFICE OF JUDGE
ADVOCATE GENERAL

Serial: Mrs. YOSHIMURA, Mitsue
Hakire, Shiyusenji Hara
Kyojima-Gun, Fukuoka-Ken

Dear Madam:

The receipt is acknowledged of your letter postmarked 8 July 1946 requesting permission to visit your husband who is confined on Guam.

The following information is furnished you. Lieutenant, Junior grade, YOSHIMURA, Tsugio, IJN, was tried on the charge of murder by a United States Military Commission, convened by the Commander Marshall's Gilbert Area, 3 December 1945. His trial began 7 December 1945 and was completed 19 December 1945. During the trial he was represented by competent counsel; namely, one Japanese Naval Officer and two United States Naval Officers, all of whom were lawyers. He was convicted and sentenced to death.

Before a sentence of death adjudged by a Military Commission, convened by United States naval authority, can be carried into effect it has to be confirmed by the Secretary of the Navy. The record of your husband's trial was sent to the Secretary of the Navy for his review and such action as he may consider appropriate with reference to the confirmation of the sentence. Pending the Secretary's action your husband will be retained in confinement at Guam.

Due to the transportation difficulties from Japan to Guam and the lack of living accommodations available for civilians on Guam and other factors your request to visit your husband cannot be granted.

Yours truly,

C. A. FOWHALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

cc: CinCPac
JAG, USN.

0137

BEST COPY AVAILABLE

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial 7900
To :

YOSHIMURA, Mitsuo,
Head of the Legal Section.

As this is the first time I have written to you I feel that I am being very forward. Please hear my plea which means more than life to me. I am the wife of Lieutenant YOSHIMURA, Torgio, IJN, who is confined on Guam and who has been sentenced to death in a war crimes trial. Torgio has been in the service for four years and during that period we did not hear from him for two years.

I and my child, who is five years old and has never seen his father's face, are living alone and leading very lonely lives.

My days are filled with tears and no matter what I do, after finding that he is still alive, I cannot bear the thought of having him snatched away again.

When I look at my child, who knows nothing of the affairs of this world, I feel as though my body is being torn apart.

If Torgio has not been executed yet, I beg that you will please let me see him once more. If I am permitted to visit him, I will do anything you ask. Please help me.

YOSHIMURA, Mitsuo.

P.S. According to American rules, how long is it after sentence has been passed before the prisoner is executed?

If Torgio has already been executed will you please inform me of the date of his execution.

Enclosure (A)

0138

BEST COPY AVAILABLE

Cinopac File

217

Serial 10847

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
HEADQUARTERS OF THE COMMANDER IN CHIEF

4 NOV 1946

1st Endorsement on
ComMARIANAS ltr.
A16-2/FF12/13-JDM-
gar serial 13302
dated 28 October
1946.



#146473

From: Commander in Chief, U. S. Pacific Fleet.
To: Secretary of the Navy. (Judge Advocate General.)
Subject: Military Commission case of YOSHIMURA, Tsugio,
Lieutenant (jg), IJN; KAWACHI, Mamoru, Ensign,
IJN, and TANAKA, Tashimoto, W. O., IJN, approved
respectively by the convening authority, Commander
Marshall's Gilberts Area and the reviewing authority
Commander-in-Chief, U. S. Pacific Fleet on 19
December 1945 and 8 March 1946.

1. Forwarded.
2. The record of proceedings of the trial by military
commission in this case was forwarded to the Judge Advocate General
by Cinopac's restricted endorsement, A17, serial 2938 of 8 March
1946.
3. One copy of enclosure (b) has been retained for Cinopac
files.

V. D. LONG
Assistant Chief of Staff
for Administration

Copy to: (1st end. only)
ComMARIANAS.



0139

Cinapan File

ALV

Serial

10847

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
HEADQUARTERS OF THE COMMANDER IN CHIEF

4 NOV 1946

1st Endorsement on
COMNAVSTANAG Ltr.
ALV-2/FF12/13-500-
gms serial 13908
dated 28 October
1946.

From: Commander in Chief, U. S. Pacific Fleet.
To: Secretary of the Navy. (Judge Advocate General.)
Subject: Military Commission case of YOSHIMURA, Yosio,
Lieutenant (jg), IJN; KAWACHI, Masaru, Ensign,
IJN, and YAMAKI, Yasuhide, U. S. O., IJN, approved
respectively by the convening authority, Commander
Marshall's Gilberts Area and the reviewing authority
Commander-in-Chief, U. S. Pacific Fleet on 19
December 1945 and 8 March 1946.

1. Forwarded.
2. The record of proceedings of the trial by military
commission in this case was forwarded to the Judge Advocate General
by Cinapan's restricted endorsement, ALV, serial 2938 of 8 March
1946.
3. One copy of enclosure (b) has been retained for Cinapan
files.

Copy to: (1st end, only)
COMNAVSTANAG.

BEST COPY AVAILABLE

0140

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

11-2/1712/
13-111-22

Serial: 13302

28 OCT 1946

From: Commander Marianas.
To : The Secretary of the Navy (JAG).
Via : Commander in Chief, Pacific Fleet.
Subject: Military Commission case of YOSHIMURA, Tangle,
Lieutenant (jg), IJN; KAWACHI, Mamoru, Ensign,
IJN, and TANAKA, Tadamoto, W. O., IJN, approved
respectively by the convening authority, Commander
Marshall's Gilberts Area and the reviewing authority
Commander-in-Chief, U. S. Pacific Fleet on 19
December 1945 and 8 March 1946.

Enclosure: (A) Original Petition of Lieutenant (jg) Sumaki
Sakuda, IJN, dated October 18, 1946, in behalf
of the subject named convicted Japanese War
Criminals.
(B) Two copies (one for CinCPac) English translation
of Enclosure (A).

1. Enclosure (A) is forwarded for the consideration of
the Secretary of the Navy in connection with his review of and action
on the subject cases.

C. A. FOWHALL.

0141
BEST COPY AVAILABLE

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

116-2/7712/
13-JUN-60

Serial: 13302

28 OCT 1946

From: Commander Marianas.
To : The Secretary of the Navy (JAG).
Via : Commander in Chief, Pacific Fleet.

Subject: Military Commission case of YOSHIMURA, Tsugio,
Lieutenant (jg), IJN; KAWACHI, Mamoru, Ensign,
IJN, and TANAKA, Tachimoto, W. O., IJN, approved
respectively by the convening authority, Commander
Marshall's Gilberts Area and the reviewing authority
Commander-in-Chief, U. S. Pacific Fleet on 19
December 1945 and 8 March 1946.

Enclosure: (A) Original Petition of Lieutenant (jg) Susuki
Sakuma, IJN, dated October 18, 1946, in behalf
of the subject named convicted Japanese War
Criminals.
(B) Two copies (one for CinCPac) English translation
of Enclosure (A).

1. Enclosure (A) is forwarded for the consideration of
the Secretary of the Navy in connection with his review of and action
on the subject case.

C. A. FOWHALL.

0142

BEST COPY AVAILABLE

October 18th, 1946.

From: Lt. (c.g.) Sawaki Sakudo, the 62nd Defense Garrison.
To: Director of War Criminals on Guam.
Subject: Petition on the Commutation of -
Lt. Yoshimura, Ensign Kawachi, and W.O. Tanaka.

These three officers have got death penalties (hanged) as a result of War Criminal Trial on Kwajalein for the reason that they had executed three American fliers in March 1944 by the order of the late admiral Masuda Hideo, the commander of the Jalut Defense Garrison.

Then, in this stockade, I hear of the progress and the result of the trials on Chichi Jima. I cannot but admire the fair trial, based on humanity and justice, on this island, and on the other hand, think that the death sentence of Yoshimura, Kawachi, and Tanaka whom I had shared with pleasure and pain on Jalut Atoll, had been a little too cruel compared with that of Chichi Jima.

Mankind are born legally equal. Is it not legally incorrect that men should be handled by bitter law in one place, and by generous one in another?

In March 1944, the late Admiral Masuda Hideo, who considered it as a great disadvantage to keep watch on the three prisoners of war, when the situations of the Marshall Islands had become rapidly critical, decided to execute three of them.

One day at night in March '44, admiral secretly summoned Yoshimura (W.O. at that time) and ordered that the prisoners be executed, telling to choose two men for his aid. Thereupon, Yoshimura chose Kawachi (W.O.) and Tanaka (C.P.O.)

They executed three fliers by admiral's order.

While they were being tried on Kwajalein, an American lawyer told them that because what they had done had been by order, they would never get severe penalties.

But the fact was, contrary to the anticipation of the lawyer and our hopes, they were given death.

According to the newspaper of Kwajalein at that time, and to the prosecution, it seemed emphasized that admiral Masuda collaborated with them.

Admiral, however, stated in his will very clearly that he had ordered the execution, and it is neither possible nor reasonable that an admiral (captain at that time) should have collaborated with a warrant officer, instead of giving order.

Isn't the military orders universally absolute throughout any armed forces of the world?

I have never lost hope that they would ever get commuted, and have waited for the news these ten months in vain.

While I am convinced that the U.S. authorities are already taking it into consideration, yet I am afraid that they would never get it after all. I can't help appealing your excellency on their commutation, being afraid to annoy your excellency by my impoliteness.

0143

Please sympathize with me, and do me your excellency's favour of taking care that they be commuted as quick as possible.

I am convinced that they had executed the prisoners of war, because they could not disobey the order as men of Japanese armed forces, without the least malice, and with the same sense of justice as of legal executors.

Now, I should like to write about their characteristic merits in order to prove that it was true.

I. Lieutenant Yoshimura:

He was a very gentle and trustworthy fellow. In January he was one of the most beloved by his seniors and juniors. He had been in charge of 25 millimeter anti-aircraft machine-guns from the beginning of 1944. In July '44, when the commander was to be relieved, because of illness, of the third anti-aircraft artillery group on Enibore Island, about five miles south-east of Iriji, the main island, admiral did not hesitate to assign him to it. It was because he had acknowledged that he was really fit for it.

I remember admiral say, "The commander of Enibore anti-aircraft artillery group can only be taken over by men of sincerity and love as he is."

The island was isolated. It had been air-raided as mercilessly as had been Iriji, and at that time everybody on the Atoll was growing weak day by day for want of food.

As a commander there he deserved our anticipation: he encouraged his men, consoled them, and when he was seriously wounded in October, he, instead of retiring, took charge with bandage all over. It was a scene which could not be beheld without tears of thanks and pity.

The fact tells how earnestly he tried to deserve admiral's trust, and how he loved his men.

I think the pious admiral Masuda had chosen him for execution of fliers, because he wanted them executed by the best men possible.

Yoshimura would never have executed the order with malicious intent.

II. Ensign Kawachi:

Kawachi must be estimated of his merits as highly as is Yoshimura.

From March 1945 the U.S. forces began evacuation of natives with ferocity. Against Ai Island on the south-west pass, they tried with breathless succession of propaganda, air-raid and bombardment.

Admiral thought that at this critical moment in order to prevent natives from escape, they should be governed with love, and he sent Kawachi to take over the island.

There had been some twenty soldiers of the army. To take over army soldiers as a naval officer would have been hardly possible if he had not been unprejudiced and fair.

Major Furuki and other officers who had inspected the island would praise that the soldiers, civilians and natives were united by his devotional love. Unfortunately, one day at night in July nearly all except a few old natives were evacuated by the U.S. warships.

However, on my visit there, I witnessed him take care of these poor blind old natives with unaltered affection to the end of the war.

Probably these blind couple and a few others that remained there would best

prove his virtuous characters.

III. Warrant Officer Tanaka:

I had been very familiarly acquainted with him since he had got promoted to an officer.

He was a possessor of rare brilliant intellect and the sense of justice.

He helped paymaster Nakamura since April 1944, when the provisions had been running rapidly short, with smile, and unfading hope and with a whole-hearted devotion to his senior.

That no one of Jalust complained of cooks largely depends on Tanaka's devotions for his work.

One day when the garrison was busy preparing for the invasion of the U.S. forces which was considered imminent, I was deeply moved by his noble spirit as the paymaster told me "Tanaka says, 'In case of battle send me to the hardest position, and I would be willing to go.'"

Though he was an officer of cook's-mate, he was sent to take over about fifty soldiers on Akison Island at the time as Kawachi, when escape of natives had become frequent on the Atoll.

At that time, besides the ability of running people, love and sincerity for them were requested of the commanders of those Islands, because, then, nobody could govern natives as well as men and civilians without this two-elements.

To send Tanaka, an officer of cook's-mate, however, had been exceptional, which shows how highly Admiral Masuda esteemed his merits of character. I was told that Major Furuki, the battalion commander, who had known him well, had often recommended him as the commander of the island. He had taken over it with justice and love to the close of the war as was expected of him.

Soldiers, civilians and natives loved him as they do their parents.

I have often heard of natives who had been once working by his charge as cooks on Imij before the air-raid, and who returned their native islands after it had been commenced on Imij, asking of every Japanese they met, "How is Tanaka?" and, "He is very good man indeed."

Sawaaki Sakuda,

War Criminal Stockade.

October 18th, 1946.

From: Lt. (S.G.) Sumaki Sakada, the 62nd Defense Garrison,
To : Director of War Criminals on Guam,
Subject: Petition on the Commutation of -
Lt. Yoshimura, Ensign Kawachi, and W.O. Tanaka.

These three officers have got death penalties (hanged) as a result of War Criminal Trial on Kwajalein for the reason that they had executed three American fliers in March 1944 by the order of the late admiral Masuda Hishiko, the commander of the Jalut Defense Garrison.

Then, in this stockade, I hear of the progress and the result of the trials on Chichi Jima. I cannot but admire the fair trial, based on humanity and justice, on this island, and on the other hand, think that the death sentence of Yoshimura, Kawachi, and Tanaka whom I had shared with pleasure and pain on Jalut Atoll, had been a little too cruel compared with that of Chichi Jima.

Man kind are born legally equal. Is it not legally incorrect that men should be handled by bitter law in one place, and by generous one in another?

In March 1944, the late Admiral Masuda Hishiko, who considered it as a great disadvantage to keep watch on the three prisoners of war, when the situations of the Marshall Islands had become rapidly critical, decided to execute three of them.

One day at night in March '44, admiral secretly summoned Yoshimura (W.O. at that time) and ordered that the prisoners be executed, telling to choose two men for his aid. Thereupon, Yoshimura chose Kawachi (W.O.) and Tanaka (C.P.O.)

They executed three fliers by admiral's order.

While they were being tried on Kwajalein, an American lawyer told them that because what they had done had been by order, they would never get severe penalties.

But the fact was, contrary to the anticipation of the lawyer and our hopes, they were given death.

According to the newspaper of Kwajalein at that time, and to the prosecution, it seemed emphasized that admiral Masuda collaborated with them.

Admiral, however, stated in his will very clearly that he had ordered the execution, and it is neither possible nor reasonable that an admiral (captain at that time) should have collaborated with a warrant officer, instead of giving order.

Isn't the military orders universally absolute throughout any armed forces of the world?

I have never lost hope that they would ever get commuted, and have waited for the news these ten months in vain.

While I am convinced that the U.S. authorities are already taking it into consideration, yet I am afraid that they would never get it after all. I can't help appealing your excellency on their commutation, being afraid to annoy your excellency by my impoliteness.

0146

Please sympathize with me, and do me your excellency's favour of taking care that they be executed as quick as possible.

I am convinced that they had executed the prisoners of war, because they could not disobey the order as men of Japanese armed forces, without the least malice, and with the same sense of justice as of legal executors.

Now, I should like to write about their characteristic merits in order to prove that it was true.

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I remember admiral say, "The commander of Enibore anti-air-craft artillery group can only be taken over by men of sincerity and love as he is."

The island was isolated. It had been air-raided as mercilessly as had been Iriji, and at that time everybody on the Atoll was growing weak day by day for want of food.

As a commander there he deserved our anticipation: he encouraged his men, consoled them, and when he was seriously wounded in October, he, instead of retiring, took charge with bandage all over. It was a scene which could not be beheld without tears of thanks and pity.

The fact tells how earnestly he tried to deserve admiral's trust, and how he loved his men.

I think the pious admiral Masuda had chosen him for execution of fliers, because he wanted them executed by the best man possible.

Yoshimura would never have executed the order with malicious intent.

II. Ensign Kawachi:

Kawachi must be estimated of his merits as highly as is Yoshimura.

From March 1945 the U.S. forces began evacuation of natives with felicity. Against Ai Island on the south-west pass, they tried with breathless succession of propaganda, air-raid and bombardment.

Admiral thought that at this critical moment in order to prevent natives from escape, they should be governed with love, and he sent Kawachi to take over the island.

There had been some twenty soldiers of the army. To take over army soldiers as a naval officer would have been hardly possible if he had not been unprejudiced and fair.

Major Furuki and other officers who had inspected the island would praise that the soldiers, civilians and natives were united by his devotional love. Unfortunately, one day at night in July nearly all except a few old natives were evacuated by the U.S. warships.

However, on my visit there, I witnessed him take care of these poor blind old natives with unaltered affection to the end of the war.

Probably these blind couple and a few others that remained there would best

prove his virtuous characters.

III. Warrant Officer Tanaka

I had been very familiarly acquainted with him since he had got promoted to an officer.

He was a possessor of rare brilliant intellect and the sense of justice.

He helped paymaster Nakamura since April 1944, when the provisions had been running rapidly short, with smile, and unfading hope and with a wholehearted devotion to his senior.

That no one of Jalnet complained of cooks largely depends on Tanaka's devotion for his work.

One day when the garrison was busy preparing for the invasion of the U.S. forces which was considered imminent, I was deeply moved by his noble spirit as the paymaster told me "Tanaka says, 'In case of battle send me to the hardest position, and I would be willing to go.'"

Though he was an officer of cook's-rank, he was sent to take over about fifty soldiers on Mison Island at the time as Kawachi, when escape of natives had become frequent on the Atoll.

At that time, besides the ability of running people, love and sincerity for them were requested of the commanders of these Islands, because, then, nobody could govern natives as well as men and civilians without this two-elements.

To send Tanaka, an officer of cook's-rank, however, had been exceptional, which shows how highly Admiral Masuda esteemed his merits of character. I was told that Major Furuki, the battalion commander, who had known him well, had often recommended him as the commander of the island. He had taken over it with justice and love to the close of the war as was expected of him.

Soldiers, civilians and natives loved him as they do their parents.

I have often heard of natives who had been once working by his charge as cooks on Iaij before the air-raid, and who returned their native islands after it had been commenced on Iaij, asking of every Japanese they met, "How is Tanaka?" and, "He is very good man indeed."

Ronald Masuda,

War Criminal Masuda.

* Mankind are born legally equal.

Is it not legally incorrect that men should be
handled by bitter law in one place, and by
generous one in another place?

Oct. 18th. 1946.

From : Lt. (S.G.) Sawaaki Sakuda, the 62nd
Defense Garrison.

To : The Director of War Criminals on Guam.

Subject :

Petition on the Comutation of
Lt. Yoshimura, Ensign Kawachi, and W.O. Tanaka.

These three officers have got death penalties (hanged)
as a result of War Criminal Trial on Kwajalein for the
reason that they had executed three American fliers in
March 1944 by the order of the late admiral Masuda
Nisuke, the commander of the Jaluit Defence Garrison.

When, in this stockade, I hear of the progress
and the result of the trials of Chichi-jima, I cannot
but admire the fair trial, based on humanity and
justice, on this island, and, on the other hand, think
that the death sentence of Yoshimura, Kawachi, and
Tanaka whom I had shared with pleasure and
pain on Jaluit Atoll, had been a little too cruel
compared with that of Chichi-jima. *

So I am eager to ask your excellency for the
comutation of these three men.

In March 1944 the late admiral Masuda
Nisuke, who considered it as a great disadvantage
to keep watch on the three prisoners of war, when
the situations of the Marshal Islands had become
rapidly critical, decided to execute three of them.

One day at night in March '44, admiral secretly summoned Yoshimura (W.O. at that time) and ordered that the prisoners be executed, telling to choose two men for his aid. Thereupon, Yoshimura chose Kawachi (W.O.) and Tanaka (C.P.O.).

They executed those fliers by admiral's order.

While they were being tried on Kwajalein, an American lawyer told them that because what they had done had been by order, they would never get severe penalties.

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The fact tells how earnestly he tried to deserve admirals' trust, and how he loved his men.

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5

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Sawaaki Sakuda,

• War Criminal Stockade.

グアム島法務長殿

一九四六年十月十八日

元第六十二警備隊 海軍大尉 作田澤秋

吉村中尉 川地少尉 田中兵曹長三名減刑ニ関ス件請願

右三名、元上防備部隊指揮官故海軍少将作田仁男、命ヨリ、一八四四年三月頃、米人捕虜三名ヲ處刑セシヨリ「エセ」と島ニ在テ戦争犯罪者裁判ノ結果何レ死刑(絞刑)宣告ヲ受ケタリ、我々此ノ收容所内ニ在テ又島戦争犯罪者裁判ノ進行及其判決ニテ其ノ片鱗ヲ聞テ本島ノ米軍ノ正義ニ基テ公正ナル裁判ニ感服スト同時ニ「エセ」と島デ「上島」ニ在テ此全ヲ共ニ見テ吉村川地田中三名ノ「エセ」とニ在テ得タル判決が本島ノ基ニ比シ稍酷ニ過タル感ヲ深クセリテ得ズ、抑人類ノ凡テ法的ニ平等ニ生シタリ、人々一也ニ在テ酷タル法ノ適用ヲ受ケ他地ニ在テ寛知タル適用ヲ受ケルコトハ得可カラズトニ非ズ、茲ニ三名ノ判決ニテ減刑ヲ請願ス次第ナリ、一九四四年三月頃故海軍少将作田仁男、急迫ヲ告グル「エセ」と方面ノ情况ニ鑑ミ捕虜三名ヲ收容シ續クルハ不利ナリト断定シ之ヲ處刑セシト一日夜、吉村中尉(當時兵曹長)ヲ呼ビ處刑ヲ命シ同時ニ助手二名ノ撰定ヲ命セリ吉村中尉ノ川地少尉(當時兵曹長)田中兵曹長(當時上曹)ヲ撰定ス三名ノ命ヨリ處刑ヲ實施ス「エセ」とニ在テ裁判ノ際米人辯護士、吉村以下三名ノ行為が命令ニ基テタル故ニタテ重刑ヲ科セムコトヲ三名ニ通知セリ、然レ其ノ結果ノ豫想ニ及ビ何レ死刑ト決定セシタリ、當時「エセ」と島舉行ノ新聞及告発状ニテ司令部以下各が共謀シテ處刑セシ事ヲ覆調セリタリ、然レ司令部其ノ遺書ニテ處刑ヲ命セリテ明曉セシテ、亦司令部の兵曹長ニ命令セカク共謀ス等、合理的ニ考ヘ得ズ、而テ命令ノ絶たぬ萬国軍隊共通ノコトニ非ズ、此ノ三名ニ関シ減刑ノ通知アルヲ信シ此ノ十月一日ヲ秋ノ思ヒ傳ヘタルニ今ニ至ル其ノ通知ス

公西米軍當局ニ於テハ既ニ考慮中、コトハ存スモ猶期ヲ大ニ
コトヲ懼レ敢テ御迷惑ヲモ顧ミズテ請願ス 願ハル小官
心情ヲ憐ミ給ヒ速ニ右三名ニ関シ減刑方御盡力アル
コトヲ
右三名が命令ニ絶対服従ス可キ日本軍人ノ立場ニ於テ
寸毫モ悪意ナリ法的ニ正當ナル死刑執行ノ同一信念ヲ享
處刑ヲ實施スルト信スル故ニ之ヲ主語ニ爲シ各三名ノ人格ニ
付テ御高瞻見ヲ資セテス

一

吉村中尉

彼資性極々温厚ニシテ信義篤キ人ナリ、尤モ上島ニテ上下敬
愛スルハ屈指ナリ 一九四四年初メヨリニ五耗村空襲後、指揮官
タリ同年七月ハ本島ヨリ南西約五哩ノ正味島第三高
角砲臺長病氣ノ爲本部ヘ歸リ其ノ文書トシテ人撰ミ隆
司令ノ躊躇スルコトヲ吉村中尉ニ任命セリ此ノ則司令
彼ノ眞ニ信頼シ得ル人格者ナルコトヲ熟知セリ故也
司令此ノ点ニ関シ正味島砲臺ニ指揮官ハ吉村中尉
ト受テ有ル人ニ非ズ人任テ完テ得スト述ベシタリ
此ノ第三砲臺ハ本島ヨリ離シ本島ト同程猛烈ニ空襲ヲ
受テ食糧ハ高時既ニ缺乏シ体力ハ日ニ著減シタリタリ
果シテ彼ノ期待セシ如ク能ク部下ヲ激勵シ慰メ同年
十月頃重傷ヲ負フモ一日モ休ラトテ包帯ヲ儘指揮スル等
眞ニ涙グマレテ治癒ナリ
此ノ中尉が司令ノ信頼ニ應ゴトスル熱意ト部下受テ表現
信仰厚キ事由ヲ得テ三名ノ捕虜ヲ信頼スルニ至ル人任者
ヨリ處刑セシメトシテ吉村中尉ヲ撰ビシテト思考ス
中尉ハ悪意ヲスル處刑スルカ如キ人ニ非ズ

二 川地少尉

彼モ人任的價值ニ於テ吉村中尉ニ一歩ヲモ譲ラズ
一九四五年三月ハ降米軍ノ島民ヲ殺戮シタリ特ニ南
西水道ニ臨ミアル島ニ對シテ傳單砲撃ヲ爆撃ヲ以
テ執拂ニ試ミタリ此時島民ノ逃亡ヲ防止スルハ受テタリ
之ヲ指揮スルコトヲ司令ノ方針ノ下ニ派遣セシ
ルカ川地少尉也

果して彼、其の正義と受て「アモ」ニ實施に終るに其仕
完つて、同島ニ在る軍人軍属、勿論島民迄彼
父母、其の真実を居たり曾て「アモ」爆撃を受る前
彼の下ニ其故所ニ歸せし島民、離島歸る後
「田中君に如何に居るか」「田中君に本當に良い人
ト會つ日本人毎に語り居たり、傳へ聞たり」

終

作田澤秋

ADDRESS REPLY TO

NAVY DEPARTMENT
WASHINGTON 25, D. C.

JAG:J:K:J:J
Mil. Com. - TONGAREVA, Tonga/
A17-30 (2-4-47) 14473

10 MAR 1947

From: The Secretary of the Navy,
To: Commander in Chief, United States Pacific Fleet.
Subj: Military Commission case of Lieutenant (junior grade)
Tongio Yoshimura, I.J.N., Ensign Masaru Kawachi, I.J.N.,
and Warrant Officer Toshimoto Tanaka, I.J.N., tried in
joinder with Ensign Tadashi Tanaka, I.J.N., by order
of Commander, Marshall Islands Area on 7 December 1945.

1. The Military Commission before which Lieutenant (junior grade) Tongio Yoshimura, I.J.N., Ensign Masaru Kawachi, I.J.N., and Warrant Officer Toshimoto Tanaka, I.J.N., were tried in joinder with Ensign Tadashi Tanaka, I.J.N., at the U.S. Naval Air Base, Kwajalein Island, Kwajalein Atoll, Marshall Islands, under date of 7 December 1945, found them guilty of the charge, murder, and adjudged the following sentences:

"The commission, therefore, sentences him, Tongio Yoshimura, Lieutenant Junior Grade, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

"The commission, therefore, sentences him, Masaru Kawachi, Ensign, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

"The commission, therefore, sentences him, Toshimoto Tanaka, warrant officer, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

2. The Commander, Marshall Islands Area, the convening authority, on 19 December 1945, subject to remarks, approved the proceedings, findings and sentences in this case.

3. The Commander in Chief, United States Pacific Fleet, the reviewing authority, on 8 March 1946, subject to remarks, approved the proceedings, findings and sentences, in this case, and the action of the convening authority therein.

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4. In accordance with the provision of Section D-14, Naval Courts and Boards, 1937, the Acting Secretary of the Navy, on 9 January 1947, commuted the sentences of death in the case of Yoshimura, Kawachi, and Tanaka, to imprisonment at hard labor for the term of their natural lives.

JOHN L. SULLIVAN

Acting Secretary of the Navy.

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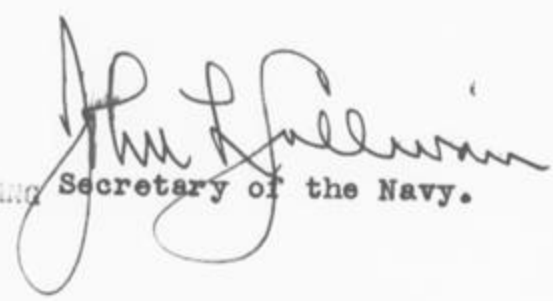
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NAVY DEPARTMENT

WASHINGTON 25, D. C.

- 9 JAN 1947

In the foregoing trial by Military Commission of Lieutenant (junior grade) Tsugio Yoshimura, Imperial Japanese Navy, Ensign Mamoru Kawachi, Imperial Japanese Navy, Ensign Tadashi Tasaki, Imperial Japanese Navy, and Warrant Officer Toshimoto Tanaka, Imperial Japanese Navy, tried in joinder, the sentences of death in the cases of Lieutenant (junior grade) Tsugio Yoshimura, Imperial Japanese Navy, Ensign Mamoru Kawachi, Imperial Japanese Navy, and Warrant Officer Toshimoto Tanaka, Imperial Japanese Navy, are commuted to imprisonment at hard labor for the term of their natural lives.


ACTING Secretary of the Navy.

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