DECLASSIFIED
Authority: NND 760050 (1945-1949)
By: NARA NARA Date: 1976

TANAKA, MASAHARU (5 NOV 1946)
et al.

(154637)
PART 1 OF 2

0971

Case of

Captain Tanaka, Masaharu, Imperial Japanese Navy,
Lieutenant Commander Danzaki, Tomeroku, Imperial Japanese Navy,
Lieutenant (junior grade) Yoshinuma, Yoshiharu, Imperial Japanese Navy.

November 5, 1946 .

RECEIVED
JAN 1947
OFFICE OF JUDGE ADVOCATE GENERAL
U.S.N. SECTION

RECORD OF PROCEEDINGS

of a

MILITARY COMMISSION

convened at

United States Pacific Fleet,

Commander Marianas

Guam, Marianas Islands,

by order of

Commander Marianas Area.

154637

0972

Classified File

A17-10(1)

Serial 6489

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

RESTRICTED
~~RESTRICTED~~

6 NOV 1947

FIRST ENDORSEMENT on
ComMarianas letter FF12/
WC-1 02-JEM-hn ser 20527
dated 30 October 1947.

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Secretary of the Navy.

Subject: TANAKA, Masaharu, late Captain, IJN, - report on execution of death sentence imposed on.

1. Forwarded, contents noted.

Paul Jackson

Copies to: (1st end. only)
ComMarianas
Director of Security, Guam

Finished File 6 FEB 1948

0973

FF12/WC-1
02-JDM-hn

Serial: 0527

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

OCT 30 1947

RESTRICTED

Subject: TANAKA, Masaharu, late Captain, IJA - report on execution of death sentence imposed on.

5. Enclosure (C) is three photographs of TANAKA. These photographs show TANAKA (1) being formally notified of confirmation of his sentence, (2) being led to the gallows immediately prior to his execution, and (3) lying in his coffin immediately after his execution.

6. Enclosure (D) is a copy of a letter to Commander Marianas from Reverend NAKAGAMI, Bunyu, a Buddhist Priest, who was, upon request, made available from Japan through the Supreme Commander Allied Powers for the purpose of providing spiritual and religious comfort to the condemned man.

7. The officer who carried out the immediate act of execution was Lieutenant Colonel George R. Newton, USMC. His report is contained in enclosure (B) of this report and contains, among other things, a certificate of execution, certificates of medical observers, certificates of official witnesses, certificate of personal identification, copy of fingerprints taken prior to and subsequent to TANAKA's execution, a receipt for the body, a report of general details of the execution and of the proceedings, and a photograph of TANAKA, the condemned war criminal.

8. The hangman was First Lieutenant Charles C. Rexroad, U. S. Army, who was made available from the Provost Marshal's Office, U. S. 8th Army, Yokohama, Japan. The performance of duty of First Lieutenant Rexroad was outstanding.

9. The personal effects of TANAKA were on 8 October 1947 forwarded by the Commander Marianas Area to the Supreme Commander Allied Powers for delivery to his next of kin.

10. All matters relative to the actual act of execution of TANAKA, were, prior to his execution and for twelve hours thereafter, classified as secret. All classified matter contained in this report is downgraded to restricted.

C. H. WRIGHT
Deputy Commander Marianas

cc: Director of Security, Guam
(less encl.)

0974

FF12/WC-1
02-JDM-hn

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial:

RESTRICTED

From: The Commander Marianas Area.
To: The Secretary of the Navy.
Via: The Commander in Chief Pacific and U. S. Pacific Fleet.

Subject: TANAKA, Masaharu, late Captain, IJN, - report on execution of death sentence imposed on.

Reference: (a) SecNav's ltr. file JAG:I:MDS:bem A17-10/0Q 151334-154637 (4-2-47) dated 16 April 1947.
(b) ComMarianas despatch 241126Z September 1947.

Enclosure: (A) Original of ComMarianas order directing execution of TANAKA, Masaharu, serial 0076, dated 16 September 1947 and endorsement thereon with enclosures.
(B) Original of Report of Director of Security, Guam, serial 6774, dated 7 October 1947, with enclosures thereof.
(C) Three photographs of TANAKA, Masaharu;(one being formally notified of confirmation of sentence, one taken immediately before execution and one taken immediately after execution.)
(D) Copy ltr. dated 25 September 1947 from Reverend NAKAGAMI, Bunyu.

1. This report is submitted in accordance with paragraph 2 of reference (a) and supplements the report contained in reference (b).

2. The death sentence imposed on TANAKA, Masaharu formerly captain, IJN, was put into execution at the Joint Communications Activity Area, Guam, Marianas Islands, on 24 September 1947 at 1913 hours. The execution was by hanging and was carried out in private with only official witnesses, necessary personnel composing the execution detail and specifically authorized press representatives present. No press releases were permitted until twelve hours after completion of the execution.

3. Enclosure (A) is the order which put into execution on 24 September 1947 the sentence of death by hanging imposed on Masaharu TANAKA. It sets out among other things the offense on which he was tried before a military commission, the sentence of the commission, and the actions of the reviewing and confirming authorities. On its face there has been written statements including an acknowledgment by TANAKA, to the effect that the order of execution was read to the condemned man the day before his execution. The first endorsement on this order contains, as enclosure (A) thereof, the certificate of execution signed by George R. Newton, the officer-in-charge of the execution detail.

4. Details of the execution and information as to the place of TANAKA's interment are contained in enclosure (B) and enclosures thereto.

FF12/A17-10(MC-1)
13-JDM-cn

Serial: 0076

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

S-E-C-R-E-T SECRET

16 SEP 1947
(Date)

From: The Commander Marianas Area.
To : The Director of Security, Guam.

Subject: TANAKA, Masaharu, captain, Imperial Japanese Navy - Execution of death sentence adjudged and confirmed in the trial of war crimes and related offenses in the case of.

Reference:
(a) Record of Military Commission case of TANAKA, Masaharu, captain, I.J.N., convened by The Commander Marianas Area precept dated 15 October 1946.
(b) SecNav's letter file JAG:I:MDS:bem A17-10/0Q 151334 - 154637 (4-2-47) dated 16 April 1947.
(c) ComMarianas Letter of Instructions, Serial 12187 dated 8 May 1947, re: Execution of Death Sentences of Convicted War Criminals.

Enclosure: (A) Unexecuted Certificate of Execution.

1. The military commission before which TANAKA, Masaharu, captain, Imperial Japanese Navy was tried, with others beginning 5 November 1946, found TANAKA, Masaharu, captain, I.J.N. guilty of Charges I, Murder, and III, Neglect of Duty in Violation of the Laws and Customs of War, and the specifications thereunder as follows:

Charge I As to TANAKA, specification proved.
Charge III As to TANAKA, specifications 1 and 2 proved.

The following sentence as to TANAKA was adjudged:

"The commission, therefore, sentences him, TANAKA, Masaharu, captain, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring.

2. The Commander Marianas Area, the convening authority, on 21 December 1946, subject to remarks, approved the proceedings, findings of guilty and sentence in TANAKA's case.

3. The Commander in Chief, United States Pacific Fleet, the reviewing authority, on 3 January 1947, subject to remarks, approved the proceedings, findings of guilty, and sentence in TANAKA's case and the action of the convening authority thereon.

4. The Acting Secretary of the Navy, on 16 April 1947, confirmed the sentence of death adjudged by the Military Commission as to TANAKA, Masaharu, captain, I.J.N. and directed the Commander Marianas Area to effect the execution of the sentence as confirmed.

0976

FF12/A17-10(WC-1)
13-JDM-cn

Serial: 0076

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

S-E-C-R-E-T SECRET

Subject: TANAKA, Masaharu, captain, Imperial Japanese Navy - Execution of death sentence adjudged and confirmed in the trial of war crimes and related offenses in the case of.

- -

5. Pursuant to the above you will put into execution on 24 September 1947 at the Joint Communications Activity Area, Guam, Marianas Islands, the sentence of death by hanging imposed on TANAKA, Masaharu, captain, I.J.N., at an hour to be determined by the officer designated by you to carry out the act of execution.

6. TANAKA will be notified of the time set for his execution no less than twenty four (24) hours prior to the time set, and at the time of notification this order will be read to him. Appropriate record of such notification should be made on the face of this order by TANAKA and the officer and interpreter reading this order at the time notice is given. After notification special precautions shall be taken to safeguard TANAKA against self destruction, but this shall not be interpreted to deny him facilities, as are considered by you compatable with his safety, for reducing to writing such letters, statements and other documents as he may desire.

7. The execution will be carried out and report submitted by the Director of Security, Guam in accordance with the provisions of reference (c). In connection with the detailed report required to be submitted by the Director of Security, Guam, it is not considered that the mere forwarding of various reports of subordinates is satisfactory compliance with the provisions of reference (c).

8. Upon execution of the subject named War Criminal and prior to the submission of the detailed report required, enclosure (A) will be completed by the Officer in Charge of the execution detail and returned immediately by you, together with this order, to the Commander Marianas Area.

9. This correspondence will retain its secret classification until twelve hours after the execution at which time it will be down graded to restricted.

C. A. Pownall
C. A. POWNALL

cc: CinCPacFlt
SecNav (JAG).
CNO

昭和二十二年九月二十三日
元海軍大佐 田中政治
I certify that I read this document to Tanaka at 1340 this date. 23 Sept., 1947.
G.R. Newton
Lt. Col. USMC Asst. Ex. Officer Execution Detail.

I certify that I have translated this document to Tanaka. Sept. 23rd, 1947. Frederick A. Savory

0977

Serial:

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SECRET

FIRST ENDORSEMENT

24 Sept 1947
(Date)

From: The Director of Security, Guam.
To : The Commander Marianas Area.

Subject: TANAKA, Masaharu, captain, Imperial Japanese Navy, Execution of Death Sentence adjudged and confirmed in the case of.

Enclosure: (A) Certificate of Execution in case of subject named War Criminal.

1. Returned. The basic order was complied with this date.

2. Attention is invited to the enclosed executed Certificate of Execution.

L. A. Dessez
(Signature)

L. A. DESSEZ, Colonel, U.S.M.C.
Director of Security, Guam.

Serial:

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SECRET

CERTIFICATE OF EXECUTION

24 Sept., 1947
(Date)

I hereby certify that the death sentence by hanging imposed on

TANAKA	Masaharu	Captain
(Surname)	(Given Name)	(Rank or Rating)

Imperial Japanese Navy, a Japanese National, was put into execution at Joint Communications Activity Area (Place), Guam, Marianas Islands, on 24 Sept., 1947 (Date) 1947 at 1913 hours.

George R. Newton
(Signature)

GEORGE R. NEWTON. Lt. Col., U.S.M.C.
Island Command Provost Marshall, Guam and
Officer in Charge Execution Detail.

RESTRICTED

SUBJECT: TANAKA, Masaharu, Captain, Imperial Japanes Navy, Execution of Death Sentence imposed on.

At 1750, 24 September, 1947, TANAKA, Masaharu, was dressed in a shirt and a pair of trousers; his arms handcuffed behind his back; drawstrings placed around the bottoms of his trousers; placed in a conveyance and taken to the place of execution. The trip was made in approximately twenty (20) minutes and was without incident. At 1850 the conveyance was opened and TANAKA, Masaharu positively identified by:

Captain John H. Leppert, USN
Commander Eugene Tatom, USN
Commander Virgil S. Deitrick, USN
Commander Jasper R. Burke (CEC), USN

The identification was made from photographs which had been taken previous to the execution and had been verified by the War Criminals Stockade officers and Basic Personnel Records Photographs which had been sent from Japan.

At 1900, TANAKA, Masaharu, was removed from the conveyance. His hands were removed from the handcuffs and rehandcuffed in front of his body. Binding straps were placed around his arms and web straps, unshackled, were placed on his ankles.

A procession consisting of Mr. B. Nakagami, Buddhist Priest, and two (2) Marine escorts conducted the condemned into the place of execution, past the above named witnesses who again positively identified the condemned as TANAKA, Masaharu, to the foot of the scaffold. The scaffold was cleared of all except the condemned man, the hangman, assistant hangman, and two (2) Marine escorts. Leg shackles were secured about the legs of TANAKA, Masaharu, a hood placed over his head, and the rope secured around his neck. Upon a signal from The Island Provost Marshal, the trap was sprung at 1913. At this time prayers were said by Mr. B. Nakagami, the Buddhist Priest. At 1914 The Provost Marshal signaled the medical observers to come forward and make their examination. TANAKA, Masaharu, was determined to be dead at 1920 hours by the two (2) medical observers. At this time the rope was slipped from around the hanged man's neck and at 2015 the body was received by Lieutenant Commander R. N. Crane (CEC), USN, Officer in Charge of the burial details for disposal according to the laws of Guam, Marianas Islands.

Before internment final services were held by the Buddhist Priest.

At 2030 the report of this execution was delivered by the Director of Security, to the Commander Marianas (Island Commander, Guam).

3. All necessary records directed by reference (a) are transmitted herewith enclosure (A).

L. A. DESSEZ

1460
JAC*tlm
RESTRICTED

HEADQUARTERS
MARINE BARRACKS, GUAM, M. I.
MARINE GARRISON FORCES, PACIFIC
NAVY NO. 926 (Nine Two Six)
c/o Fleet Post Office
San Francisco, California.

Serial: 6774

7 October, 1947.

From: The Director of Security, Guam.
To: Commander Marianas Area.

Subject: TANAKA, Masaharu, Captain, Imperial Japanese Navy, Execution of Death Sentence, imposed on.

References: (a) Commander Marianas Letter of Instruction, serial 12187, dated 8 May, 1947, subject, Execution of Death Sentence of Convicted War Criminals, instructions concerning.
(b) Commander Marianas order, serial 0076, dated 16 September, 1947, directing execution of subject named person.

Enclosures: (A) Letter from The Island Command Provost Marshal, dated 25 September, 1947, with enclosures.
(B) Copy of reference (a).
(C) Copy of reference (b).

1. Pursuant to references (a) and (b) the death sentence imposed on TANAKA, Masaharu, Captain, Imperial Japanese Navy, was put into execution at Joint Communications Activities Area, Guam, Marianas Islands, on 24 September, 1947, at 1913 hours.

2. At 1337, 23 September, 1947, TANAKA, Masaharu, Captain, Imperial Japanese Navy, was removed from his cell in the custody of two (2) sentries and brought before the following personnel for the publishing of his sentence:

Colonel L. A. Dessez, USMC, Director of Security, Guam;
Lieutenant Colonel G. R. Newton, USMC, Officer in Charge of Executions;
Major R. E. Carey, USMC, Execution Recorder;
Yeoman 1/c J. B. Jarvis, USN, Execution Recorder;
Commander H. H. Wells, (ChC), USN;
Lieutenant J. H. Kerrell, USN;
First Lieutenant C. C. Rexroad, USA, Official Hangman;
First Lieutenant P. E. Sanders, USMC, Officer in Charge of War Criminals Stockade;
Second Lieutenant H. Frison, USMC, Assistant to Officer in Charge, War Criminals Stockade;
Mr. B. Nakagami of the Buddhist Temple, Tsukyi, Tokyo, Japan; and
Mr. Fred Savory, Interpreter.

Also present were guards and official photographers from Commander Marianas.

RESTRICTED

SUBJECT: TANAKA, Masaharu, Captain, Imperial Japanese Navy, Execution of Death Sentence, imposed on.

Lieutenant Colonel G. R. Newton, USMC, read the execution order in English and the interpreter Mr. Fred Savory, read the official translation in Japanese to the condemned. The condemned was not noticeably nervous at first. However, his rate of respiration increased and became very rapid at the conclusion of his statement. After the order had been read the following statements were made, each being translated by the interpreter from English to Japanese or Japanese to English as necessary:

Lieutenant Colonel G. R. Newton, USMC, Officer in Charge of Executions. "Masaharu TANAKA, have you an oral or written statement to make before the order directing your execution is carried out?"

TANAKA, Masaharu. "It gives me great difficulity to make a statement being in my present position. However, I would like to say a few words. During my trial it was said that there are proofs to substantiate the charges and specifications brought against me. However, the most important proof was not brought to light. It is the understanding in the Japanese Navy that during War an order is absolute and also the person giving the order takes full responsibility. The man who receives the order is not responsible. That is the law in the Japanese military. I understand also that even in international law the receiver of the order is not responsible for the order. Soon my superior officer will be brought to trial and during his trial I firmly believe that his responsibility will be brought to light. If it is possible, I would like to be given a little grace."

Lieutenant Colonel G. R. Newton, USMC. "I am unable to grant your request as I must carry out the orders that have been given me. You will be allowed to smoke, write letters and be visited by Mr. B. Nakagami, the Buddhist Priest.

At 1534, 24 September, 1947, Lieutenant Colonel G. R. Newton, USMC, visited TANAKA, Masaharu, and informed him that he had consulted the legal office of Commander Marianas and had been advised that a stay of execution could not be granted.

2135
GRN/scf

OFFICE OF THE ISLAND COMMAND PROVOST MARSHAL
MARINE BARRACKS, GUAM, MARIANAS ISLANDS

Serial: 2537

25 September, 1947

From: The Island Command Provost Marshal.
To: The Director of Security, Guam.

Subject: TANAKA, Masaharu, Captain, Imperial Japanese Navy, execution of death sentence, report on.

References:
(a) Hq Marine Barracks, Guam, M.I., Security Plan 4-47, dtd 13 May, 1947.
(b) Director of Security, Guam, restricted letter, dated 18 September, 1947, re: execution of death sentence on subject-named war criminal.
(c) U.S. Pacific Fleet, Commander Marianas (Island Commander), Guam, Marianas Islands, Execution Plan 3-47, dated 1200K, 16 September, 1947.

Enclosures:
(A) Certificate of Execution.
(B) Certificate of Senior Medical Observer.
(C) Certificate of Junior Medical Observer.
(D) Official Witness Certificate (Capt. J.H. Leppert, USN).
(E) Official Witness Certificate (Cdr. E. Tatom, USN).
(F) Official Witness Certificate (Cdr. V.S. Deitrick, USN).
(G) Official Witness Certificate (Cdr. J.R. Burke, USN).
(H) Certificate of personal identification.
(I) Copy of fingerprints taken prior to execution.
(J) Copy of fingerprints taken subsequent to execution.
(K) Receipt for body.
(L) Report of general details of execution.
(M) Report of proceedings.
(N) Photograph of subject-named war criminal.
(O) Copy of reference (b).
(P) Statement of Masaharu TANAKA.

1. In compliance with the directive contained in reference (b), and in accordance with the procedure outlined in reference (c), the death sentence imposed on TANAKA, Masaharu, Captain, Imperial Japanese Navy, was put into execution at the Joint Communications Activities Area, Guam, Marianas Islands, on 24 September, 1947, at 1913 hours.

2. Required reports, receipts, and certificates are submitted herewith as enclosures (A) through (O).

George R. Newton
GEORGE R. NEWTON

Enclosure (A) to Director of
Security serial 6774, 7Oct47.

CERTIFICATE OF EXECUTION

24 September, 1947
(Date)

I hereby certify that the death sentence by hanging imposed on TANAKA (Surname), Masaharu (Given name), Captain (Rank or rating), Imperial Japanese Navy was put into execution at Joint Communication Activity (Place), Guam, Marianas Islands, on 24 September (Date), 1947 at 1913 (Time) hours.

George R. Newton
GEORGE R. NEWTON,
Lieutenant Colonel, U. S. Marine Corps,
Island Command Provost Marshal,
Officer in Charge, Execution Detail.

Enclosure "A" to
IsCom. Provost Marshal SER. 2507

0984

MARINE BARRACKS
Guam, Marianas Islands

24 September 1947.
(Date)

MEDICAL OBSERVERS CERTIFICATE

I certify that at 1920 (Time) hours, on 24 September 1947. (Date), I examined the body of TANAKA, Masaharu Captain (Name and Rank or Rating), Imperial Japanese Navy who was hanged at the Joint Communications Activity, at 1913, hours, Guam, Marianas Islands. I found him dead.

Signature

G. K. YOUNGKIN
Name (typed)

Captain (MC) (61612) USN.
Rank (serial)

Enclosure "B" to
IsCom. Provost Marshal SER. 3587.

MARINE BARRACKS
Guam, Marianas Islands

24 September 1947.
(Date)

MEDICAL OBSERVERS CERTIFICATE

I certify that at 1920 (Time) hours, on 24 September 1947 (Date), I examined the body of TANAKA, Masaharu, Captain (Name and Rank or Rating), Imperial Japanese Navy who was hanged at the Joint Communications Activity, at 1913, hours, Guam, Marianas Islands. I found him dead.

A. J. Cerny
Signature

A. J. CERNY
Name (typed)

Captain (MC) (76043) USN.
Rank (serial)

Enclosure "C" to
IsCom. Provost Marshal SER. 2637.

7

NAVEDU BARRACKS
Guam, Marianas Islands

24 September, 1947
(Date)

OFFICIAL WITNESS CERTIFICATE

I certify that at 1913 (Time) hours on 24 September, 1947 (Date)

at the Joint Communications Area, Guam, Marianas Islands, I witnessed the execution by hanging of TANAKA Masaharu, Captain (Name and Rank or Rate), Imperial Japanese Navy, who was thereafter declared dead.

John H. Leppert
Signature of Witness

JOHN H. LEPPERT
Name (typed)

Captain USN (57647)
Rank, Branch of Service, Serial No.
(Typed)

Enclosure "D" to

IsCom. Provost Marshal SER. 3537

0987

MARINE BARRACKS
Guam, Marianas Islands

24 September, 1947
(Date)

OFFICIAL WITNESS CERTIFICATE

I certify that at 1913 (Time) hours on 24 September, 1947 (Date)
at the Joint Communications Area, Guam, Marianas Islands, I witnessed
the execution by hanging of TANAKA Masaharu, Captain (Name and Rank or Rate),
Japanese Navy, who was thereafter declared dead.

E Tatom
Signature of Witness

EUGENE TATOM
Name (typed)

Commander USN (70299)
Rank, Branch of Service, Serial No.
(Typed)

Enclosure "E" to
IoCom. Provost Marshal ser 2507.

MARINE BARRACKS
Guam, Marianas Islands

24 September, 1947
(Date)

OFFICIAL WITNESS CERTIFICATE

I certify that at 1913 (Time) hours on 24 September, 1947 (Date)
at the Joint Communications Area, Guam, Marianas Islands, I witnessed
the execution by hanging of TANAKA, Masaharu, Captain, (Name and Rank or Rate), Imperial
Japanese Navy, who was thereafter declared dead.

Virgil S. Deitrick
Signature of Witness

VIRGIL S. DEITRICK
Name (typed)

Commander, USN. (75824)
Rank, Branch of Service, Serial No.
(Typed)

Enclosure "F" to
Ltr Com. Provost Marshal. Jan 2587

MARINE BARRACKS
Guam, Marianas Islands

24 September, 1947
(Date)

OFFICIAL WITNESS CERTIFICATE

I certify that at 1913 (Time) hours on 24 September, 1947 (Date)

at the Joint Communications Area, Guam, Marianas Islands, I witnessed the execution by hanging of TANAKA, Masaharu (Name and Rank or Rate), Imperial Japanese Navy, who was thereafter declared dead.

Joseph R Burke
Signature of Witness

JOSEPH R. BURKE
Name (typed)

Commander (CEC), USN (113/84)
Rank, Branch of Service, Serial No.
(Typed)

Enclosure "G" to
IsCom. Provost Marshal ser 2[illegible]

24 September, 1947
(Date)

CERTIFICATE

1. I, the undersigned do certify that the remains which I have personally viewed are those of:

TANAKA	(n)	MEASAHARU	Captain, IJN
LAST NAME	MIDDLE INITIAL	FIRST NAME	RANK

2. My identification was based on passed acquaintance covering a period of One (1) months.

3. Remarks: None

Name Signed Paul E. Sanders

Name Printed PAUL E. SANDERS

Rank First Lieutenant, USMC

Serial (043002)

Organization HRS Company, Marine Barracks, Guam, M.I.

This identification was made in my presence:

G.R. Newton Name Signed

G.R. NEWTON Name Printed

Lieut Colonel Rank

(05786) Serial

Marine Barracks, Guam, M.I. Organization

Enclosure "H" to

ICom. Provost Marshal Serial 350

0991

No. 606

Name TANAKA, MASAHRU, Captain, I.J.N.

Alias

Sex MALE Color YELLOW

F.P.C. 32 II O I (17)
32 II M I (19)

Ref.

1. Right Thumb	2. R. Index Finger	3. R. Middle Finger	4. R. Ring Finger	5. R. Little Finger
16 / O	16 / I	8 / O	8 / I	4 / O

6. Left Thumb	7. L. Index Finger	8. L. Middle Finger	9. L. Ring Finger	10. L. Little Finger
4 / I	2 / I	2 / I	1 / M	1 / I

Impressions taken by

Date taken 13 June 1947

Signature of Person Fingerprinted
田中政治

Classified by

Four Fingers Left Hand	Left Thumb	Right Thumb	Four Fingers Right Hand

Ex-Lieutenant (j.g.) Imperial Japanese Navy, Interrogator, International Prosecution Section, Tokyo, Japan

2537

I

0992

NAVAL GOVERNMENT OF GUAM
DEPARTMENT OF CIVIL POLICE
GUAM, MARIANAS ISLANDS

Charge War Criminal — Date 27 March 1946

Disposition of Case Condemned to hang — Date [illegible]

Arrested by U.S. Marine Corp — Date [illegible]

City or Town Asa, Nakasato — Municipality

Marks and Scars

Birth Date 27 April 1885 — Local Residence

Other Residence Japan

Age: 62	24 September 1947.
Height: 5'2½"	I certify that these fingerprints were taken prior to execution.
Weight: 118#	R.E. CARNEY
Build: Short	Major, USMC
Complexion: Yellow	Recorder.
Hair: Black	
Eyes: Brown	

Nationality: Japanese
Birth Place: Japan
Education: 14 Yrs
Occupation: Capt. IJA
Married
Single
Social Sec. No.
I. D. Cert. No.

Remarks

Accomplices

Previous Record

0993

NAME TANAKA, Masaharu, Captain, I.J.N.

ALIAS

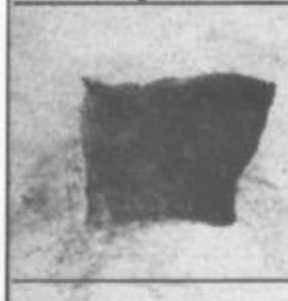
CLASSIFICATION

NO. (2) F. B. I. No.
B. C. I. No.

REF.

IMPRESSIONS TAKEN BY R. Records DATE 9/24/47 CLASSIFIED BY DATE

RIGHT HAND

1. Right Thumb	2. Right Fore Finger	3. Right Middle Finger	4. Right Ring Finger	5. Right Little Finger
				

LEFT HAND

6. Left Thumb	7. Left Fore Finger	8. Left Middle Finger	9. Left Ring Finger	10. Left Little Finger

Plain Impressions Taken Simultaneously

LEFT HAND

L. Thumb	R. Thumb

Plain Impressions Taken Simultaneously

RIGHT HAND

Enclosure "J" to ICom. Project NAVSHAL SER.2537.

"J"

0994

NAME TANAKA, Masaharu, Captain, I.J.N. NO. SEX COLOR

ALIASES

CRIME DATE OF ARREST

PLACE ARRESTED CRIME COMMITTED IN COUNTY

(city, town or village)

ARRESTED BY

NAMES OF ASSOCIATES

AGE DATE BORN

HEIGHT WEIGHT

EYES HAIR

COMPLEXION BUILD

PLACE OF BIRTH

NATIONALITY

OCCUPATION

CITIZEN

SCARS AND MARKS

THIS SPACE FOR PHOTO

24 September 1947.

I certify that these fingerprints were taken subsequent to the execution.

R. E. Carey

R. E. CAREY
Major, USMC
Recorder.

DISPOSITION

BRIEF HISTORY OF CRIME COMMITTED:

PREVIOUS CRIMINAL HISTORY

SIRCHIE FINGER PRINT LABS., 933 CHESTNUT ST., PHILA. 7, PA.

0495

MARINE BARRACKS
Guam, Marianas Islands

24 September 1947.
(Date)

RECEIPT FOR BODY

Received of Lieutenant Colonel George R. NEWTON, U.S. Marine Corps, Island Command Provost Marshal, Guam, Marianas Islands, at 2015 (Hours) on 24 Sept 1947 (Date), the remains of TANAKA (last name), Masaharu (first name), Captain (rank or rating), Imperial Japanese Navy, (branch of service) for interment according to the laws of Guam, Marianas Islands. This body will be buried at Asan Cemetery, Asan, Guam, M.I., Lot No. 426, Plot 41.

R N Crane
Signature

R.N. CRANE
Name printed

Lieut-Comdr. (CEC) USN
Rank

O in C, Burial Detail
Official Capacity

Enclosure "K" to
IoCom. Provost Marshal ser 2637.

0996

OFFICE OF THE PROVOST MARSHAL
ISLAND COMMAND, GUAM, M. I.

25 September 1947
(Date)

1. Name TANAKA, Masaharu Citizenship Japanese
Captain, I.J.N.
Color Brown Race Oriental

2. Soldier-Civilian I.J.N. Serial Number
Status War Criminal

3. Height 5' 3" Weight 120 Condition of
Muscles Poor

4. Length of drop 7' 1"

5. Was collapse board used? No What kind

6. Place of execution Joint Communications Activity
Date 24 September 1947

7. Time trap sprung 1913 hrs. Time pronounced dead 1920 hrs.

8. Execution directed by George R. NEWTON, Lieutenant Colonel, USMC.

9. Public or private execution Private
Number of witnesses Four (4)

Page one of Enclosure "L" to
ISCOM. Provost Marshal @ Sep. 2507.

0997

11. Number of officials participating Twelve (12)

Duties Island Command Provost Marshal (In Charge) - Director of execution. Planning and Coordination of all details attendant thereto. Deputy to the Island Command Provost Marshal - Recorder. Officer in Charge, War Criminal Stockade - Security of Prisoners and delivery to place of execution. Assistant to Officer in Charge War Criminal Stockade - To carry out normal duties of Officer in Charge, War Criminal Stockade during his absence. Officer in Charge Place of Execution - To safeguard place of execution from molestation by individuals before, during and after executions. Assist Official Hangman as required. Island Public Works Officer - Provide all material required and furnish necessary maintenance, police and utilities. Area Chaplain - Provide religious assistance or Priests as required and /or requested. War Crimes Legal Officer - Provide legal, clerical and language assistance as required. Provide the Island Command Provost Marshal with findings and sentence in the case of each condemned war criminal. Medical Officer in Command, U.S. Naval Medical Center - Provide necessary Medical Officers (3) to witness execution and furnish necessary data regarding time of death, fingerprints, first aid for witnesses as required and affix identification discs to remains and coffin. Official Hangman - To execute those condemned War Criminals as designated by the Island Command Provost Marshal, Guam, M.I. Civil Administrator - Provide the necessary transportation and personnel to recieve and interment remains and to provide suitable markers for graves. Maintain accurate record showing location of grave of each condemned War Criminal. Commander Marianas Public Information Office - prepare official press releases and pictures for release by Commander Marianas.

Page two of [illegible] dtd 20 Apr.

0498

12. Type of scaffold: Lever action.

Size of rope: 3/4" Type of Rope: Manila Hemp.

Condition of rope: Excellent Kind of Knot Plain loop - Sliding Keeper

13. Were pictures made: Yes

14. Name of executioner: First Lieutenant Charles C. Rexroad, U.S. Army.

Assistants: Capt John F. Griffin, USMC, T/Sgt George W. Dinning, USMC
S/Sgt Steve Hemite, USMC, S/Sgt Carold J. Gissenger, USMC

15. Remarks of technical details with observations and recommendations:

The construction of the Gallows was changed from that contained in War Department Pamphlet 27-4 in the following respects:

1. Trap door was enlarged by 2 inches per side.
2. An iron strap was fastened on trap door such that when the trap was sprung, the door was locked against the studding of the gallows and could not swing back against the hanged body.
3. A pulley was mounted directly above trap door over which the rope was passed instead of the conventional eye bolt.
4. A cleat was secured against the center upright of the Gallows at a height of 40 inches above the platform to secure the free end of the hangmans rope.
5. A cylindrical wooden block 2" in diameter and 5" long was used in place of the hangman's knot on the rope.
6. The use of the cleat, the pulley and the cylindrical wooden block allowed quick lowering and removal of rope from hanged man, and also allowed the same rope to be used over again.

It is recommended that the above changes be made in the above named pamphlet and incorporated by the Navy for use in all future hangings in the United States Navy.

George R. Newton
GEORGE R. NEWTON,
Lieutenant Colonel, U.S. Marine Corps,
Officer in Charge of Executions.

Page three of Enclosure "L" to
Is Com. Provost Marshal Ltr. 2007

MARINE BARRACKS
Guam, Marianas Islands

25 September, 1947

Subject: Execution of TANAKA, Masaharu, Captain, Imperial Japanese Navy, report of proceeding of.

At 1200, 23 September, 1947, TANAKA was taken from his cell at the War Criminal Stockade, Guam, Marianas Islands, and taken to the shower. After bathing, he was issued a pair of cotton drawers and a pair of leather shoes without laces and was placed in a solitary cell in hut #1. The cell had been examined and found secure and without any instruments with which TANAKA might take his life. A sentry was posted continuously outside his cell from this point on until he was taken to the place of execution.

At 1337 TANAKA was removed from his cell in the custody of two (2) sentries and brought before Lieutenant Colonel George R. Newton, U.S. Marine Corps, for the publishing of the sentence and to be informed of the time of his execution. TANAKA stood at attention during the reading of the execution order in English. At the end of this reading, he requested translation of the entire order into Japanese. After having signed the order he was informed that he could make a written or oral statement then or after having conferred with the Buddhist Priest. He indicated his desire to make a statement. The translation follows: "It gives me great difficulty to make a statement being in my present position. However, I would like to say a few words. During my trial it was said that there are proofs to substantiate the charges and specifications brought against me. However, the most important proof was not brought to light. It is the understanding in the Japanese Navy that during war an order is absolute and also the person giving the order takes full responsibility. The man who receives the order is not responsible. That is the law in the Japanese military. I understand also that even in international law the receiver of the order is not responsible for the order. Soon my superior officer will be brought to trial and during his trial I firmly believe that his responsibility will be brought to light. If it is possible, I would like to be given a little grace." Lieutenant Colonel Newton replied, "I am unable to grant your request as I must carry out the orders that have been given to me." TANAKA was advised that he could have cigarettes, write letters, and have the Priest visithim. Although not visibly moved at first, his rate of respiration gradually increased and became very rapid when he was notified that his request for grace would not be granted. He was returned to his cell at 1355.

Present during the reading of the sentence were: Colonel L.A. Dessez, USMC, Director of Security, Guam; Lieutenant Colonel George R. Newton, USMC, Officer in Charge of Executions; Major R.E. Carey, USMC, Execution Recorder; Yeoman 1/c J.B. Jarvis, USN, Execution Reporter; Commander H.H. Wells, (ChC), USN; Lieutenant J.H. Kerrell, USN; First Lieutenant Charles C. Rexroad, USA, Official Hangman; First Lieutenant Paul E. Sanders, USMC, Officer in Charge, War Criminal Stockade; Second Lieutenant H. Frison, USMC, Assistant to Officer in Charge, War Criminal Stockade; Mr. B. Nakagami of the Buddhist Temple, Tsukyi, Tokyo, Japan; and Mr. Fred Savory, interpreter. Also present were guards and official photographers from Commander Marianas.

Subject: Execution of TANAKA, Masaharu, Captain, Imperial Japanese Navy, report of proceedings of, dtd 25Sept'47 - cont'd..

At 1400, 23 September, 1947, TANAKA spoke with the Priest and received a prayer book from him. Thereafter he alternately read his prayer book, paced his cell, and sat down, evidently meditating. After dinner at 1715, he smoked, wrote a letter, and retired about 2200, evidently sleeping quite soundly. He seemed rather unconcerned about his sentence. At 0500, 24 September, 1947, he was awaken, and he continued to write until 0645. After pacing the cell throughout the morning, he slept soundly for an hour. At about 1320, the Priest entered and accompanied TANAKA to religious services which were completed about 1530. Lieutenant Colonel Newton visited Tanaka and informed him that he had consulted the legal office of Commander Marianas and had been advised that a stay of execution could not be granted. Thereafter he seemed to be unconcerned, but it was noted that his hand trembled whenever he smoked. He tried to write a little, but after reading his letter, tore it up.

At 1750 TANAKA was dressed in a shirt and a pair of trousers; his arms were handcuffed behind his back and draw strings placed around the bottom of his trousers. He was then placed in the conveyance which took him to the place of execution. The trip was made in about twenty (20) minutes and was without incident. At 1850 the conveyance was opened and TANAKA identified by the four witnesses. At 1900 he was removed from the conveyance, his hands removed from the handcuffs to be re-handcuffed in front of his body. Binding straps were placed around his arms and web straps, unshackled, were placed on his ankles.

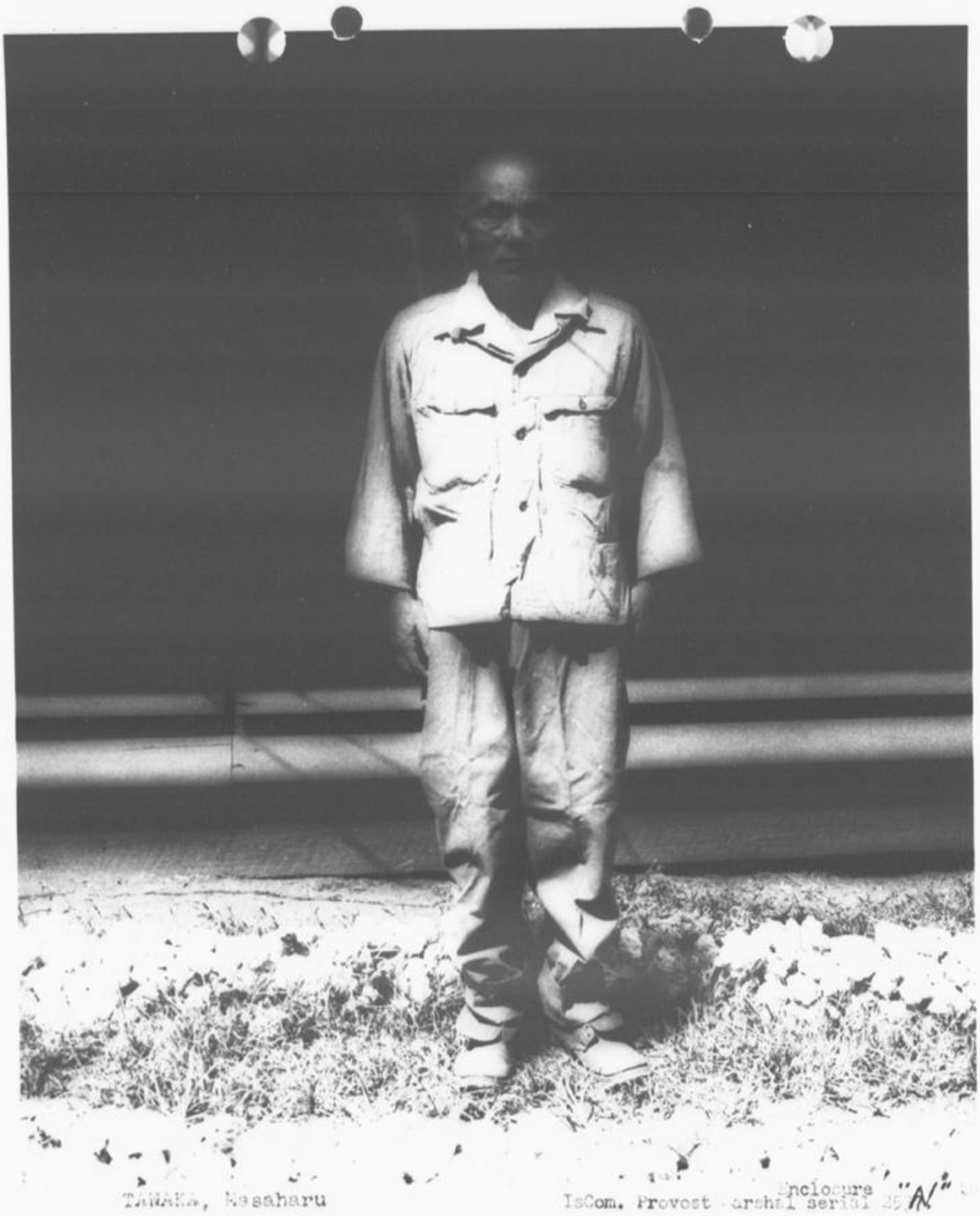
Accompanied by the Buddhist Priest, TANAKA was led past the witnesses to the foot of the gallows. Immediately thereafter he mounted the scaffold; leg shackles, hood, and noose were placed, and TANAKA was dropped through the trap at 1913. Prayers were said by the Buddhist Priest. He was declared dead by the two (2) official Medical Observers at 1920, 24 September, 1947. Before internment final services were held by the Priest.

George R. Newton

GEORGE R. NEWTON,
Lieutenant Colonel, U. S. Marine Corps,
Officer in Charge of Executions.

Page two of Enclosure (M) to
Provost Marshal serial 2537.

1001



TANAKA, Nesaharu

Enclosure "N"
IsCom. Provost Marshal serial 25

SECRET

OFFICE OF
DIRECTOR OF SECURITY, GUAM, M. I.

SECRET

18 September, 1947.
(date)

From: The Director of Security, Guam.
To : The Island Command Provost Marshal, Guam, M. I.

Subject: Execution of Death Sentence imposed on TANAKA, Masaharu, Captain, Imperial Japanese Navy.

References: (a) War Department Restricted Pamphlet No. 27-4 dated 12 June, 1944, Subject, Procedure for Military Executions.
(b) ComMarianas Ltr. Serial 12187, dated 8 May 1947.
(c) ComMarianas Ltr. Serial 0076, dated 16 Sept 1947.
(d) Marine Bks Security Plan 4-47, dated 13 May 1947.

Enclosure: (A) Unexecuted Certificate of Execution.

1. Pursuant to reference (c) you will put into execution on 24 September, 1947 at The Joint Communication activities area, Guam, Marianas Islands, the sentence of death by hanging imposed on Masaharu TANAKA, Captain, I.J.N., which sentence was confirmed by the (Acting Secretary of the Navy 16 April, 1947.

2. By copy of this order, the following officers and civilian representative are directed to attend the execution in the capacity indicated:

LtCol. George R. NEWTON, USMC (05786), Marine Barracks, Guam, OinC, Execution Detail.
Comdr. H. H. WELLS, (chc), USN (117200), Commander Marianas, Acting Area Chaplain.
Capt. Carl K. YOUNGKIN, (MC), USN (61612), U. S. Naval Medical Center, Guam, Medical Observer.
Capt. Alvin J. CERNY, (MC), USN (76043), U. S. Naval Medical Center, Guam, Medical Observer.
Comdr. John C. TRAUGH, (MC), USN (234899), U. S. Naval Medical Center, Guam, Medical Observer.
Capt. John H. LEPPERT, USN (57647), Joint Communication Activities, Guam, Official Witness.
Comdr. Eugene TATOM, USN (70299), U. S. Naval Air Station, Agana, Guam, Official Witness.
Comdr. Virgil S. DEITRICK, USN (75824), U. S. Naval Air Station Orote, Guam, Official Witness.
Comdr. Joseph R. BURKE, (CEC), USN (113484), U. S. Naval Air Station Orote, Guam, Official Witness.
Mr. Fred SAVORY, Interpreter, (furnished by Commander Marianas).
Col. Lester A. DESSEZ, USMC (0237), Marine Barracks, Guam, Director of Security, Guam.
Comdr. Ralph N. ERNEST (CEC), USN (70142), Island Public Works, OinC. Gallows, Place of Execution.
LtComdr. R. N. CRANE, (CEC), USN (0190941), Island Public Works, OinC Burial Detail.
Capt. John H. GRIFFIN, USMC (09053), Marine Barracks, Guam, OinC Place of Execution.
Lieut. Joseph H. KERRELL, USN (0918275), Commander Marianas, Public Information Officer.
1stLieut. Paul E. SANDERS, USMC (043002), Marine Barracks, Guam, OinC War Criminals.
1stLieut. Charles C. REXROAD, USA (02032111), Corps Provost Marshal's Office, 8th Army, Official Hangman.
1stLieut. A. COAKER, USA ( ), Corps Provost Marshal's Office, 8th Army, Assistant to Official Hangman.
Major Roland E. CAREY, USMC (08184), Marine Barracks, Guam, Deputy Island Provost Marshal, Recorder.

3. The execution will be private and will be attended only by such additional personnel as necessary to properly carry out the execution or as further authorized by this command. Upon execution of this sentence, enclosure (A) will be completed by you and returned to this command. A detailed report together with Medical Observers and Witnesses certificates will be submitted by the Recorder.

Enclosure "C"
-1- IstCom. Provost Marshal serial 2537

1003

EXECUTION OF DEATH SENTENCE IMPOSED ON TANAKA, Masaharu, Capt., IJN.

4. The provisions of references (a) and (b), except as modified by higher authority, will be complied with.

5. This correspondence will retain its secret classification until twelve hours after the execution at which time it will be down graded to restricted.

J. L. Keene

(Director of Security, Guam)

Copy to: Commander Marianas (4).
War Crimes Legal Office (2).
Each Officer concerned has received paragraph two.

1004

LAST STATEMENT OF MASAHARU TANAKA, 63 YRS OLD, JAPANESE NATIONAL

24 September, 1947

I abided with the Japanese military discipline and carried out this incident which is the responsibility of my superior; therefore, if this was a trial with the Japanese court martial presiding, I believe I would not be asked to assume this responsibility. Furthermore, I know that in the international law there is a clause which states that the responsibility lies only with the person who gave the orders to carry out an objective during the war. But the plan of this trial is to have all the persons involved in the incident guilty and the lightness or heaviness of the guilt is according to the position they held.

I was given my sentence on 13 November of last year stating that the charges and specification was proved. But the decision was made without acknowledging the superior order which was the strongest evidence and I received the greatest penalty. Finally, this has been brought up the channel and has been approved by the American Secretary of the Navy and I am to be hanged on the 24 September, 1947.

As a result of the investigation of this incident since then, there has been proof that the order was given and I think the trial will be held for the superior officers in the near future.

I ask that my execution be postponed until after the trial and from the result be reconsidered. But I was told that they sympathize with me as to the situation, but as it is an order of the highest authority, the Commanding Officer of this area has no authority to postpone the execution.

This is a fate for a body that is not immortal.

In the islands of the south sea there are several places where the same kind of incident has taken place under the same condition. All of them are a result of hard work of the superior and his subordinates serving under strict military discipline. All of them did not expect this kind of a trial.

Maybe it was the result of extreme mental training for both the superior and the subordinates. Maybe it was the difference in the conditions of the country.

Since I left Nakazato on 29 March, of last year, 1 year 5 months and 26 days have past. During this period I have gone through an ordeal which was the first since I was born and the last. It was an ordeal which I cannot express in writing or words. I have not chaged my belief of telling our posperity not to have a dishonorable name, and I am still strong of mind and body. I will go back to heaven firmly believing and praying for the happiness and prosperity of our home.

I have already obtained the great belief of "Namiamidobutsu" - (Buddhism).

1005

(Last statement of Masaharu Tanaka, dtd 24Sept'47 - cont'd..)

Today a priest, Nakagami, Bunya of the Tokyo-to, Chuo-ku, Chikuji Hongunji came to see me. My buddhist name.

Truthful.

/s/ TANAKA, MASAHARU
63 yrs. old.

FUMI, TANAKA
c/o MATSUNAGA, CHUHEI
28 AZA-NAKAZATO, FUNATSU-MURA,
KITAMURO-GUN, MIE-KEN,
JAPAN.

MASAHIDE, MASATAKA, MASATADA, & REI TANAKA.

CERTIFIED A TRUE COPY:

R. E. Carey

Major R.E. CAREY, USMC,
Deputy IsCom Provost Marshal.

Page two of Enclosure (P) to
IsCom. Provost Marshal serial 2537.

1006

FF12/A17-10
13-JDM-rhj-tlm

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial: 12187

RESTRICTED

8 May 1947

From: The Commander Marianas Area and Governor of Guam.
To: The Director of Security, Guam.

Subject: Execution of Death Sentences of Convicted War Criminals, - instructions concerning.

Reference: (a) War Department Restricted Pamphlet No. 27-4 dated 12 June 1944, subject, Procedure for Military Executions.
(b) SecNav dispatch 281515 (Jan 1947) to Governor of Guam.

Enclosures: (A) Form-Report of Execution. (Omitted)
(B) Form-Receipt for Body. (Omitted)
(C) Form-Medical Observer's Certificate. (Omitted)
(D) Form-Official Witness's Certificate. (Omitted)
(E) Sample-Order to be issued to person designated to carry out immediate act of execution and other members of execution detail. (Actual order must be appropiately worded to cover circumstances). (Omitted)

1. Subsequent to 1 June 1947, on dates to be designated by the Commander Marianas Area, the convicted War Criminals in your custody who have been sentenced to death by military commission and whose death sentences have been duly confirmed by the Secretary of the Navy will be executed. The executions will be carried out in the vicinity of the Tumon Bay Annex, War Criminal Stockade, Guam, Marianas Area, or at such other place on Guam as may be selected by the Director of Security with the approval of the Commander Marianas.

2. You are hereby delegated the duties connected with carrying out of the execution of the above referred to War Criminals. You are authorized and directed to make plans for such executions. You will provide all essentials for such executions from personnel and material under your command and made available to you from other commands hereafter indicated. Separate orders for execution will subsequently be issued to you by the Commander Marianas Area in each specific case. You will upon receipt of such subsequent orders designate by written orders the person to carry out the immediate act of execution and the other members of the execution detail.

3. In carrying out executions you will comply, in as far as practicable, with the provisions of reference (a) except where such provisions are inconsistent with this directive.

4. Executions will be private and will be attended only by the following:

Officer in Charge of execution detail to carry out immediate act of execution.

One (1) Professional Hangman, to be furnished by Commander Marianas (In case of hanging).

Two (2) Chaplains, preferable of the prisoner's choice if available. The Chaplains may be members of the U. S. Armed Forces (Navy or Army) or civilian.

One (1) Representative of the Japanese Government if approved by higher authority.

Two (2) Medical Observers.

Four (4) Official Witnesses.

One (1) Interpreter to be furnished by Commander Marianas.

Enclosure (D) to Director of
[illegible] serial 6774, dtd 20Oct47.

1007

One (1) Recorder.

Commander Marianas Public Information Officer, and such press representatives and photographers as he may, with the specific authority of Commander Marianas, designate.

Such additional personnel as necessary to properly carry out the execution.

If personnel indicated above are not available to the Director of Security, prior to the date set for an exedution, report to this effect will be made to the Commander Marianas Area.

5. Upon completion of an execution, the remains will be delivered to the Civil Administrator and Chief of Staff to Governor of Guam or his duly authorized representative for interment locally in accordance with the laws of Guam at a place designated by the Civil Administrator, Guam. A receipt in the form of enclosure (B) will be obtained from the person to whom the remains are delivered. This receipt will show on its face the place the place where the remains are to be interred.

6. A complete detailed report together with Medical Observers and Witnesses certificates will be submitted covering each execution. For guidance and aid in facilitating your report, enclosures (A), (B), (C) and (D) are furnished. These enclosures may not cover all matters pertaining to the executions and are not to be interpreted to exclude items that should be reported.

7. By copy of this directive, the first five information addresses are directed to report to the Director of Security, Guam for the purpose of providing him personnel, material, services and facilities considered necessary by the Director of Security for carrying out ordered executions.

C. A. POWNALL

CC To:

Civil Administrator andChief of Staff to Governor of Guam.
Medical Officer in Command, U. S. Naval Hospital, Guam.
ComMarianas Area Chaplain.
ComMarianas Island Public Works Officer, Guam.
Commanding Officer, U. S. Marine Barracks, Guam.
Rear Admiral E. L. Marshall, U.S.N. (CEC).
Medical Officer in Command, Naval Medical Center, Guam.
CinCPac and U. S. PacFlt.

ANNEX "A"

FF12/A17-10(WC-1)
13-JDM-cn

0076

[redacted]

16 SEP 1947
(Date)

From: The Commander Marianas Area.
To : The Director of Security, Guam.

Subject: TANAKA, Masaharu, captain, Imperial Japanese Navy - Execution of death sentence adjudged and confirmed in the trial of war crimes and related offenses in the case of.

Reference: (a) Record of Military Commission case of TANAKA, Masaharu, captain, I.J.N., convened by The Commander Marianas Area precept dated 15 October 1946.
(b) SecNav's letter file JAG:I:MDS:bem A17-10/0Q 151334 - 154637 (4-2-47) dated 16 April 1947.
(c) ComMarianas Letter of Instructions, Serial 12187 dated 8 May 1947, re: Execution of Death Sentence of Convicted War Criminals.

Enclosure: (A) Unexecuted Certificate of Execution.

1. The military commission before which TANAKA, Masaharu, captain, Imperial Japanese Navy was tried, with others beginning 5 November 1946, found TANAKA, Masaharu, captain I.J.N. guilty of Charges I, Murder, and III, Neglect of Duty in Violation of the Laws and Customs of War, and the specifications thereunder as follows:

Charge I As to TANAKA, specification proved.
Charge III As to TANAKA, specifications 1 and 2 proved.

The following sentence as to TANAKA was adjudged:

"The commission, therefore, sentences him, TANAKA, Masaharu, captain, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

2. The Commander Marianas Area, the convening authority, on 21 December 1946, subject to remarks, approved the proceedings, findings of guilty and sentence in TANAKA's case.

3. The Commander in Chief, United States Pacific Fleet, the reviewing authority, on 3 January 1947, subject to remarks, approved the proceedings, findings of guilty, and sentence in TANAKA's case and the action of the convening authority thereon.

4. The Acting Secretary of the Navy, on 16 April 1947, confirmed the sentence of death adjudged by the Military Commission as to TANAKA, Masaharu, captain, I.J.N. and directed the Commander Marianas Area to effect the execution of the sentence as confirmed.

1009

FF12/A17-10(WC-1)
13-JDM-cn

[redacted]

Subject: TANAKA, Masaharu, captain, Imperial Japanese Navy - Execution of death sentence adjudged and confirmed in the trial of war crimes and related offenses in the case of.

- -

5. Pursuant to the above you will put into execution on 24 September 1947 at the Joint Communications Activity Area, Guam, Marianas Islands, the sentence of death by hanging imposed on TANAKA, Masaharu, captain, I.J.N., at an hour to be determined by the officer designated by you to carry out the act of execution.

6. TANAKA will be notified of the time set for his execution no less than twenty four (24) hours prior to the time set, and at the time of notification this order will be read to him. Appropriate record of such notification should be made on the face of this order by TANAKA and the officer and interpreter reading this order at the time notice is given. After notification special precautions shall be taken to safeguard TANAKA against self destruction, but this shall not be interpreted to deny him facilities, as are considered by you compatable with his safety, for reducing to writing such letters, statements and other documents as he may desire.

7. The execution will be carried out and report submitted by the Director of Security, Guam in accordance with the provisions of reference (c). In connection with the detailed report required to be submitted by the Director of Security, Guam, it is not considered that the mere forwarding of various reports of subordinates is satisfactory compliance with the provisions of reference (c).

8. Upon execution of the subject named War Criminal and prior to the submission of the detailed report required, enclosure (A) will be completed by the Officer in Charge of the execution detail and returned immediately by you, together with this order, to the Commander Marianas Area.

9. This correspondence will retain its secret classification until twelve hours after the execution at which time it will down graded to restricted.

C. A. POWNALL

cc: CinCPacFlt
SecNav (JAG).
CNO

7

FIRST ENDORSEMENT

(Date)

From: The Director of Security, Guam.
To : The Commander Marianas Area.

Subject: TANAKA, Masaharu, captain, Imperial Japanese Navy, Execution of Death Sentence adjudged and confirmed in the case of.

Enclosure: (A) Certificate of Execution in case of subject named War Criminal.

1. Returned. The basic order was complied with this date.

2. Attention is invited to the enclosed executed Certificate of Execution.

(Signature)

L.A. DUSSEZ, Colonel, U.S.M.C.
Director of Security, Guam.

Page three of Enclosure (C) to Director of Security serial 6774, 7Oct47.

[redacted]

CERTIFICATE OF EXECUTION

_____
(Date)

I hereby certify that the death sentence by hanging imposed on

TANAKA (Surname) Masaharu (Given Name) Captain (Rank or Rating),

Imperial Japanese Navy, a Japanese National, was put into execution at

Joint Communications Activity Area, Guam, Marianas Islands, on _____,
(Date)

1947, at _____ hours.

_____
(Signature)

GEORGE R. NEWTON, Lt. Col., U.S.M.C.
Island Command Provost Marshal, Guam and
Officer in Charge Execution Detail.

Page four of Enclosure (C) to Director of
Security serial 6774, 7Oct47.

1012

E I 01

ENCLOSURE C(1)

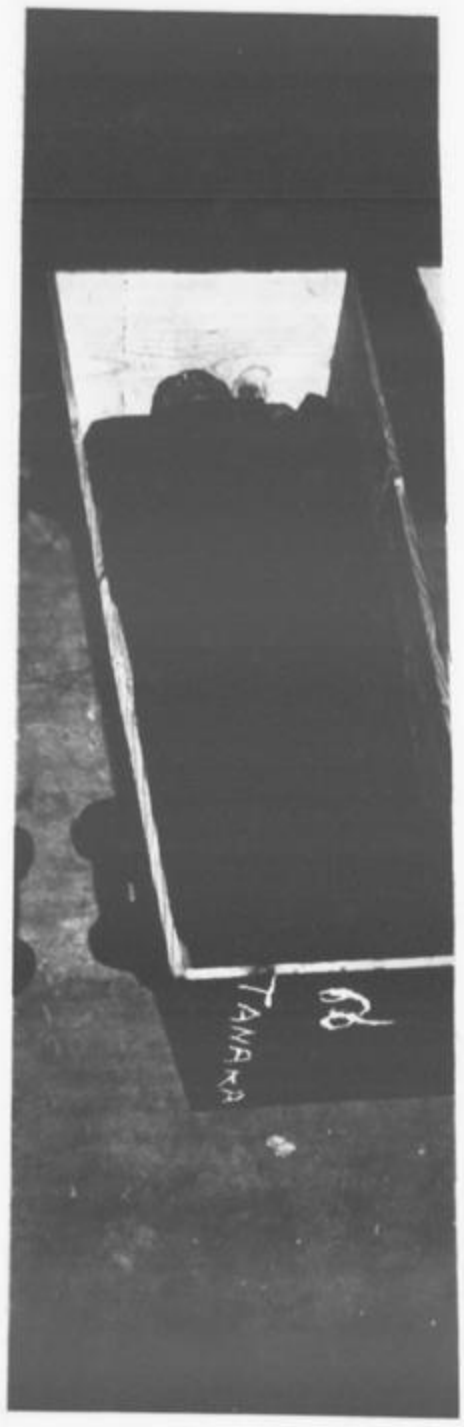
Captain Masaharu TANAKA, IJN, is shown being formally notified by Lt. Col. George Newton, USMC, of confirmation of his death sentence.

OFFICIAL
U.S. NAVY

Captain Masaharu TANAKA, IJN, is shown as he is led before the board of naval officers who identified him at the scene of the execution. Within the space of one minute after this picture was taken the body of Captain TANAKA was swinging from the gallows.

OFFICIAL U.S. NAVY PHOTOGRAPH

10 16



PHOTOGRAPH OF CAPTAIN MASAHARU TANAKA, IJN, TAKEN II HIS COFFIN IMMEDIATELY AFTER EXECUTION.

ENCLOSURE C(3)

Guam, Marianas Islands,
25 September 1947.

To: Commander Marianas.

Subject: Letter of Appreciation.

1. I very greatly appreciate the fact that I have been summoned to Guam through your sincere consideration so that the five condemned Japanese could peacefully fulfill their sentences in accordance with their belief in Buddhism, which is their religion.

2. On my departure from Guam, I would like to bring the following to your attention for your satisfaction:

(1) The condemned persons were at first uneasy but as I met with them and talked to them on three occasions about religion they all went peacefully to their deaths.

(2) All the condemned men asked me to convey to you their thanks for your kind consideration.

(3) When I return to Japan I shall tell their families of your great kindness and also that they died peacefully.

(4) I believe it will be an honor for me to convey to Archbishop OTANI, KOSHO of the KYOTO NISHI HONGANJI which is the headquarters of my faith the kindness shown me during my stay at Guam. I shall also tell him that you are always exceedingly considerate of the Japanese.

/s/ Rev. B. Nakagami
Reverend Bunyu Nakagami,
Nishi Honganji Sect,
Tokyo, Chikuji, Honganji.

ENCLOSURE D

Cincpacflt File
P8-5

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

Serial 2429

16 APR 1947

FIRST ENDORSEMENT on
ComMARIANAS letter
FF12/P8-5 13-EEF-arh
serial 10877 dated 10
April 1947.

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.

Subject: Masaharu TANAKA, Captain, Imperial Japanese Navy, convicted war criminal - petitions in behalf of.

Reference: (a) CincPacflt serial 20 dated 3 January 1947.
(b) Cincpacflt serial 1273 dated 27 February 1947.

1. Forwarded.

2. The record of proceedings of trial by military commission of Captain Masaharu TANAKA, IJN, et. al., was forwarded by reference (a). Reference (b) forwarded a previous petition in behalf of TANAKA.

3. No further action is contemplated by Cincpacflt.

Copy to: (1st end. only)
ComMARIANAS

V. D. LONG
Assistant Chief of Staff
for Administration

RECEIVED
25 APR 1947
OFFICE OF JUDGE
ADVOCATE GENERAL
G.C.M. SECTION

FF12/P8-5
13-KKF-arh

Serial:

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

10877

10 APR 1947

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.

Subject: Masaharu TANAKA, Captain, Imperial Japanese Navy, convicted war criminal - petitions in behalf of.

Enclosures: (A) Original petition in Japanese from Sukeshichiro OKUDA and twenty others dated 7 December 1946.
(B) English translation of Enclosure (A).
(C) Original petition in Japanese from the wife and four children of Tanaka dated 1 January 1947.
(D) English translation of Enclosure (C).
(E) Original petition in Japanese from Chubei MATSUNAGA and seven other relatives dated 3 January 1947.
(F) English translation of Enclosure (E).
(G) Original petition in Japanese from Tokutaro SUMIYAMA and eleven others dated 4 January 1947.
(H) English translation of Enclosure (G).
(I) Original petition in Japanese from Eiichi MATSUNAGA and twenty-three others dated 5 January 1947.
(J) English translation of Enclosure (I).
(K) Original petition in Japanese from Hisashi KATO dated 6 January 1947.
(L) English translation of Enclosure (K).

1. Enclosures (A) through (L) were received by Commander Marianas 7 April 1947 and are forwarded for such action as the Secretary of the Navy may consider appropriate.

2. Subject War Criminal was tried and convicted before a Military Commission convened by the Commander Marianas, at Guam, Marianas Islands 5 November 1946. He is now confined at Guam, Marianas Islands, pending confirmation of the death sentence adjudged in his case.

3. The proceedings, findings, and sentence in Tanaka's case were approved by the convening authority, 21 December 1946 and by the Commander in Chief, U. S. Pacific Fleet 3 January 1947. The record of the proceedings, (Record of Proceedings of a Military Commission - case of Captain Masaharu Tanaka, IJN, et al) was forwarded to the Secretary of the Navy for confirmation of the death sentence.

4. The writers of the enclosures have not been advised of this reference nor has this office acknowledged to them receipt thereof. No further action is contemplated by Commander Marianas.

C. A. Pownall

C. A. POWNALL

1020

歎願書

氏名　田中政治
生年月日　明治十八年十月二十七日

右は昭和七年四月十五日から昭和十六年九月九日まで愛知縣名古屋港務所に勤務しておりました。
此の間船舶の入出港に付き硬泊場指定責任者でありましたが、本人の性格は極めて平和的で、親切善良でしたから、その性格の現われと思われる別紙のような事件もありましたが、本人の現在は戰犯責任者となっておるそうですが、本人の在職中かぎりにも善良な人格者でありました。
から何卒情狀酌量せられますよう當時の関係者や知己の者か連署ももって、ひたすら歎願いたします。

昭和二十二年一月七日

歎願人
名古屋港務所

全	奥田貞七郎	
全	谷本誠一	
全	長谷川治	
全	早川基作	
全	鬼頭俊二	
全	山口平八	
全	佐藤録郎	
全	鬼頭一郎	

名古屋港務所　神野圭一

仝　村山福義

仝

名古屋市水先人　林壽東

若林喜二

マリアナ方面司令官

米國海軍中將　パーネル閣下

田中次治氏が名古屋港務所に在職中の事績

一、オランダ船救難に就て

デヤバテイナ コヤバン ラインの汽船（総噸数一〇八三五噸）が昭和八年十二月十九日夕方名古屋港を出発せんとして内航路に入るや航機に故障を生じたので航路西側浅瀬へ全体座州しました。其の時同氏は突船数隻と起重機船を直急集めて、来夜をもものともせず突却しに勉めましたので翌二十日午後八時頃船体を無事に離州せしめ救難作業は成功しました。

二、アメリカ船救難に就て、

アメリカン メイル ラインの汽船 プレシデント ゼファーソン（総噸数一四一七四噸）が昭和九年二月二十三日午前十一時頃名古屋港を出港せんとして、扶錨した処、見張のため港内浅瀬に坐州しましたので、同氏は突船数隻を集め再三突却しに勉め翌二十四日午前三時頃船体を無事に離州せしめ救難作業は成功しました。

三、アメリカ船救難に就て

エス、エス フラー商会汽船 シティオブ、ジョリエット（総噸数五六六八噸）が昭和十三年二月二十六日夕方伊勢湾出口 伊良湖埼附近に坐礁しなので同氏は自己の職務遂行上放置なるも人命救助の至高なる精神に基き、直ちに部下を指揮督励、二月二十七日午前十時頃より突船 竹千代丸に乗船して現場に急行し救難作業に従事し二月二十九日午後帰港するや

102

52
1021

ヘヤーシ是非ニ拝見致シタイモノデス

ソレカラ今ハ無イガ昔ハ名所絵ノ外ニ

百人一首ヤ源氏絵ヤ名所絵ノ外ニ

ソレカラ人形ヤ芝居ノ絵ヤ

ソレカラ今ハ無イガ昔ハ名所絵ノ外ニ

ソレカラ今ハ無イガ昔ハ名所絵ノ外ニ

ヘヤーシ是非ニ拝見致シタイモノデス

PETITION FOR TANAKA, MASAHARU (born on 27 April 1885).

TANAKA served at the Nagoya Harbour Office, Aichi-ken, since 15 April 1932 till 9 September 1941. During that time, he had the responsibility to assign the incoming and outgoing ships their anchorage. His character was peaceful, kind and good, and with the character he did such things as shown in the annexed paper.

We heard that he is now a war criminal. But when he was serving at our office he was of very good character. We, his freinds and acquaintances at that time, hereby sign jointly and petition you that you will deal leniently with him.

7 December 1946

Nagoya Harbour Office
OKUDA, Sukeshichiro. SUZUKI, Seiichi.
HASEGAWA, Yoshihisa. HAYAKAWA, Jinsaku.
KITO, Shunzo. YAMAGUCHI, Heihachi.
SATO, Rokuro. KITO, Ichiro.
KAJIUCHI, Akira. KATO, Jiro.
KATO, Koji. KASAI, Katsushiro.
TSUGE, Yasutaro. IGAMI, Saburo.
NISHIKAWA, Tsunekazu. FUKAMI, Tadashi.
YAMAMOTO, Shohei. NAGAYA, Kenzaburo.
YAMAMORI, Yataro. INUKAI, Yoshio.
TATEMATSU, Takebei. SUZUKI, Rinzo.
KANABATA, Sakujiro. MASAMOTO, Seichi.
OHASHI, Kurataro.

Pilot of Yokkaichi Harbour, Nagoya
KUSHO, Koji. ISHIZUKA, Tanemasa.

Nagoya Harbour Office
HAYASHI, Ryoichi

Ship Transportation Co. Nagoya Office
YOKOI, Hamaro. MIZOGUCHI, Haruo.
ONO, Sabue.

Nagoya Harbour Transportation Co.
TORII, Ichimatsu. INABA, Seitaro.

Nagoya Harbour Office
JINNO, Keiichi. MURAKAMI, Fukuyoshi.
HAYASHI, Hisaichi.

Pilot of Yokkaichi, Nagoya
WAKABAYASHI, Zenzo.

To Your Honor Pownall, Rear-admiral, USN, The Commander Marianas Area.

(3)

1026

ACTUAL RESULTS OF TANAKA, MASAHARU WHEN HE WAS SERVING AT THE NAGOYA HARBOUR OFFICE

1. Concerning the rescue of a Holland ship

The Jibesser (10835 tons), ss of the Java-China- Japan Line was going to leave Nagoya harbour in the evening of 19 December 1933. When she entered the inside ~~of~~ passage, her rudder went wrong and she ran upon the shore to the west of the passage. Then he called several tugboats and crane ships at once, and exerted to pull her away from the shallows even though it was a very cold night. The ship could leave from the shallows safely at 8 pm on the next day, the 20th, and the rescue work was successful.

2. Concerning the rescue of an American ship

The President Jefferson (14172 tons) ss of the American Mail Line weighed her anchor when she was about to leave Nagoya harbour at 11 am on 23 February 1934, but on accout of wind and current she ran ashore in the harbour. He hurriedly assembled tugboats and tried to pull her away the shore until 3 am next day, 24th, when the ship could leave the shore safely and he was successful in the rescue work.

3. Concerning the rescue of an American ship

The City of Jelicight (5668 tons) ss of the G. A. Frrah Co. ran ashore near Irakozaki which was in the month of the Ise Bay in the evening of 26 March 1940. It was outside of his assigned duty area. But he had such a noble spilit to rescue human lives that he encouraged his men, got aberd the tugboat Takashiye-maru at 10 am of March 27, hurried to the place, engaged in the rescue work and endeavered very hard for their rescue until the afternoon of March 29 when he came back to the harbour.

4. Concerning other matters

When he was on service at the Nagoya harbour, foreign trade at the harbour was at its height, and many foreign ships of America, England, Holland, Norway, Sweden, Russia and other countries came in to the harbour. He gave directions to these foreign ships with the utmost carefulness in order that they could safely and quickly lead or unload their cagoes so that every person was thankful to him.

1027

嘆願書

マリアナ方面司令官
米国海軍中将 バーネル閣下

私共ノ父ニ関スル軍事裁判ニ就イテ サキニ米国海軍大平洋方面最高司令官閣下ニ別紙ノ如キ嘆願書ヲ提出シタノデアリマスガ 更ニ今回閣下ノ救援セラレンガ御審議ヲ得タク、失礼乍ラ茲ニ於テ閣下ノ賢明ナル御考慮ヲ以下上申致シマス

私共ノ父 元退役海軍大佐 田中政治ハ グアム裁判ニ於テ一九四六年十一月十六日 極刑ヲ宣告セラレタノデアリマスガ

一、軍事裁判ニ就テ

大平洋戦争終結後ポツダム宣言ニ従ヒ軍事裁判ガ開始セラレタノデアリマスガ 貴国ガ国ニ公平ナル審理ヲ遂ゲ戦争ニ関シ犯セル一切ノ罪ニ対シ人類ノ敵トシテ一人モ余スナク 又一人モ誤ニナク 裁判セラレルヲ知リ敬意ヲ表スルノデアリマスガ

トナリタリトハ云ヘ 父ガ重大ナ誤ヲ犯サレタ時ハ私共ト雖モ当然一ツ屋根ノ下ニ居ナカツタノデアリマスガ 如何ナル極刑タリトモ当然ナズンノデアリマス

罰ヲ受ケル理由ハ タダ罪無キ父ガ罪ヲ犯セシ実ヲ知ラズ為デアリマス

ナキヤヲ恐レル為デアリマス 禍根ヲ将来ニ残スヲ

一、七人ノ貴国捕虜殺害ヲ作ス

新聞報導ニヨレバ 罪條トシテ 七人ノ貴国捕虜殺害

（十二行）

セル事実ガアケラレタト云フノデアリマスガ 私共ガ父カラ聞イテ
所ニ別紙書面ノ通リデアリマス 七人ノ捕虜ニ関シ父ハ全ク知ラ
ナカッタノデアリマス 父ガ私共ニ為ヲ申ス筈モナク 而モ七人ノ
捕虜殺害ノ件ガ実デアル以上 下級者ノ独断ニ
ヨッテナサレタルカ 或ハ上官(根據地隊司令官 或ハ第四
艦隊司令長官)ヨリ直接又ヲ経ズシテ発セラレタ命令ニヨル
カデアルト考ヘザルヲ得マセン
又父ノ地位ニ付等責任ヲ今ノ発シ得ベキ地位デナカッタ
ニ父ガ聞イテ居リマス ソノ為ニ老齢デアリ而モ軍人ト
シテ能力ノ少イ父ガ職ニ補セラレタノデアリ又父ノ如キ
上官ノ命令通リニ行動スル性格ヲ自分ノ職責以
上ノ命令ヲ父ガ独断ニテ発スルヲ許ス筈ガナイト信ゼラレマス

一 謹言ニ就テ
以上ノ諸点ニアルト考ヘラレル時ニ父ガ検事ノ如キ態度ニ
向ヒタルハ 甚ダ上官ノ証言或ハ土着原住民ノ証言
等ニヨリテ父ガ其ヲ知リ今ノ今マデ知ラザリシト
思ヒマスノデアリマスカ
上官ノ証言ト雖モ上級司令部ノ参謀部ヨリ発令セラレ
上官ガ知ラズト云フ事ハアリ得ルノデアリマス 而モ其ノ場合アリ
得ベキ事ト思ヒマス 況ンヤ軍ノ如キ封建的
以テ其ヲ申サザルヲ考ヘラレルノデアリマス
又土着現住民ノ証言ヲ吾々ガ貴国人ノ見ル場合
殆ド同一人物ト識別シ難キコトヲシテ信カニケ

(十二枚)

月並ニ在隊セシ父カ而モ胃腸障害ノ為殆ド外部ニ出テサリシトヨリ父ヲ明確ニ記憶シ得ントス思ハサルモノトス

一、結論

イ、上官カ命令ヲ発セシ場合

父ニ於テ責任カ無イノデアリ若シ父カ強リテ封建的思想ト旧式ノ武士道精神トヨリ実ニ甚シク述ベタル裁判ニモトセハ貴国ノ目的トセラレンル実ニ甚シク述ベタル裁判ニモ及シ又将来ヲ危惧セシメルモノト思ハレマス

ロ、下級者カ独断ニテ罪ヲ犯セシ場合

父ハ知ラストハ云ヘ部下軍隊ノ掌握不充分ト云フ重大ナル責任カ生ズルノデアリマスカ老齢ノ退役軍人ニテ軍人タルノ能力ヲ少シ而テ僅カ二ヶ月足ラズ滞在中胃腸障害ノ為殆ド部下軍隊ノ状況ヲ部下ノ性格ヲ把握スルヲ得ナカル如キデアリ而モ上官ニハ二階級現役ノ将官カ任シ軍隊ノ統率シテアリタルデアリ父ノ責任ハ即チ把握地隊司令官、責任デアリ又最モノ責任者ニアラス船隊長官カ責任ヲ負フヘキ筈ニシテ父ノ責任ハ僅カニ軽微ナルモノト信ス

以上ノ如ク父ニ責任ノ軽微ナル点ヲ御賢察ノ上何卒格別ノ御取計ヲ以テ御願申上ケマス

以上別紙書面ノ通リ上申致シマス

（十二月）

E 01

マイクロ

借大ハ平和条約発効ノ日ヨリ満七ケ年ヲ経過シタル後ニ於テ何時ニテモ之ヲ終了セシムルコトヲ得

昭和二十二年一月一日

賃貸人　吉田茂　㊞

賃借人　米国陸軍省　㊞

賃借人　米国陸軍省　㊞

賃貸人　吉田茂　㊞

賃借人　米国陸軍省　㊞

賃貸人　吉田茂　㊞

賃借人　米国陸軍省　㊞

PETITION

To Your Honor Fewnall, Rear-admiral, USN, The Commander Marianas Area.

Although we offered another petition to Your Honor, the Commander-in-Chief of the Pacific Area concerning the elemency in the case of my father, we would like to state the following in order that you would have kind consideration concerning him at the Guam tribunal which is under your command.

Our father, TANAKA, Masaharu, ex-captain, IJN, received the supreme sentence at the Guam trial on 16 November 1946.

1. Concerning the Military Tribunal

According to the Potsdam Declaration, military trials were held after the termination of the Pacific War. We would like to pay our respect to you to know that you held very fair trials and try every single person who commited crime concerning the warfare as the enemy of the mankind. It was unlucky that our father was accused at the Guam Tribunal. But we think it is simply natural that he ought to have supreme punishment if he had commited serious crime. The reason why we place this humble statement before you is that we are afraid that an innocent man might have been punished and the guilty man might have escaped so that it might remain evil of future.

2. Concerning the case of murder of seven prisoners of your country

According to the newpaper, the fact that seven prisoners of your country were executed was reported. But what our father said to us was as shown on another statement and he did not know about the seven prisoners whatsoever. If the murder of the seven prisoners are the fact we can not but think that it was done by the decision of his subordinate or by the order of his superior (Naval Base Commander, or The Commander-in Chief of the 4th Fleet) who gave it directly without passing through my father.

We have heard from my father that he was not in such a posetion as able to issue any responsible order. That is why my father, who is an old man and had but little talent as a military officer was appointed to the job. My father was a steady man. He did only what he was ordered. Therefore, I am convinced that he never issued such an order as beyond his assigned duty.

3. Concerning the testimony

Though the circumstances might have been as above he was alleged his responsibility which deserved supreme sentence. I think that my father was thought to have known the fact and to have ordered it by the testimonies of his superiors and the natives of the island.

Even the testimony of the superior may sometimes be false, because he might not knew the order issued from the staff officers section or he might state false with intent. It may also be considered that my father was so steady and old-fashoned that he might not tell the truth by his feudal ideas, his old bushido spilit and the self-abandonment of the Orient.

As to the testimony of the natives we can say as follows: When we see the people of your country, we can not make exact discriminaiton, because they seem

(1)

1032

to bear no difference for us. I think it is also the same for the natives toward us. Moreover, my father stayed at Truk for only less than two months and on account of the trouble of his stomach and bowels it was very rare that he went outside his quarter. I can not think that the natives can discriminate my father.

4. Conclusion

1) In the case when his superior gave the order
In this case my father has no responsibility at all. If my father did not state the truth on account of his feudal thought and his old-fashened bushido spilit, it will be against your fair trial based upon facts which you are trying ti attain. Also the real criminal who could escape from the guilt will do evil for the peace of the future. If the fact were such, I beg you to blame the wrong thought of my father and to hold trial again.

2) In the case when his subordinates commited the crime by their own decision. Although my father did not know the fact, he is responsible that this command was insufficient. He was an old officer who had once resigned from the active service, and had but little talent for a military officer. Besides, he was there for only less than two months and could not see the conditions of his unit or the characters of his subordinates, because he had troubles in his stomach and bowels. Besides he had two admirals of active service as his superior, who commanded the whole unit. Therefore, the responsibility of my father was that of the Naval Base Commander; and the responsibility of the Naval Base Commander was that of the Commanding officer of the Fleet. I beg you will understand these circumstances and you will deal leniently with him.

We hereby offer this petition with another statement. I petition you that you will understand what we mean to say and have special consideration upon him.

Hoping that your country and Your Honor are well,

1 January 1947

wife TANAKA, Fumiko.
eldest son TANAKA, Masahide.
second son TANAKA, Masatada.
third son TANAKA, Masataka.
eldest daughter TANAKA, Reiko.

1033

嘆願書

マリアナ方面司令官
米國海軍中將 パーネル閣下

光輝ある米國海軍を統率せられる米國マリアナ方面司令官 パーネル閣下に謹んで上申致します

元日本運送海軍大佐 田中政治

は目下グアム島に於て戰犯人として貴國の公正なる審議を受けつゝありますが 先般家族の者より極刑を宣告せられたと聞きまして 二に親戚一同失禮をも顧ず 減刑嘆願書を提出致す次第であります 彼田中政治は一九〇五年頃家庭の事情より好まざるに抱らず日本海軍に身を投じ一九二四年に至り到底その仕にあらずとして自ら軍籍を退きその後家庭にあつて善良なる一家の主人として子供の成長を唯一の樂しみに生活して來ました。一九四一年大平洋戰爭勃發前三ヶ月老齡にも抱らず野望旺んなる軍閥の爲に戰場へと狩り出され止むを得ず再び軍服を纏ふ身となつたのであります

彼田中政治は親戚一同の中にありましても常に温厚にして且仁愛深く土に親しみ生物を愛し小鳥や小動物を飼ひ馴らすを趣味と致し如何なることにも感情に溺れることなく常に冷靜なる態度を持し 全く平和的なる性格の持主でありました 又自分の軍隊に於ける經驗より子供は軍人にするを嫌ひ皆文化的なる社會人として

のみ育成に努力してゐた程であります
一九四[illegible]年三月健康に恵まれず軍人としての任務を
完うし得ざるに従つて軍役を解かれ家族の疎開先
なる松永忠兵衛宅に落着き悲惨なる戦場より
全く離脱して病気療養の傍ら本職の希望であつ
た農耕に従事してゐたのであります。して我々一同もあまりに
も平和なる姿に感心致してゐたのであります
當時軍籍に在つた者は必然的に在郷軍人として
戦争指導者の地位につかねばならぬ状況にあつたにも拘
らず之れさへ固く辞してその地位につかず専ら農耕
をこととしたのであります
一九四六年三月末突然戦犯人として出頭を命ぜら
れ東京に参つたのでありますが出發の際にも自ら決し
て犯罪を冒したことはないと信じ我々一同も日頃の
生活又は本来の平和的なる性格よりして[illegible]もその戦
犯人なるを信ぜず全く無罪を信じてゐたのであります
貴國の裁判の公正にして且厳なるはもとより疑い
所ではないのでありますが今回の宣告と仄聞しました
罪状とを伺ひまして意想外の事件に全く驚き次第
であります
そもそも日本軍隊は古来より封建的なる組織に束
縛せられ上官の命令には絶対服従し且独断下
命の機會は與へられなかつたのでありまして一介の
部隊長であつた田中政治には独断の命令は下し

(十二行)

得ざるものと思ふのであります
慈愛深く温厚にして律義なる彼田中政治は自ら
進んで犠牲に立つ行為を為すとは全く信ぜられず
又すや上官の命令に依るものと思惟せらるるのであ
ります
ここに彼田中政治と平生より生活を共にし親しくその謦
を知る親戚一同相図りまして陽下の統轄せらるる
神聖なる法廷に於て更に御審議の上何卒御賢
容なる判決を給はらんことを伏して懇願致すもの
であります
最後に世界平和確立の為努力せられる米国海軍の
健在と陽下の御健斗を祈願して止まぬもので
あります

一九四七年一月三日　　敬具

甥　松永榮夫　㊞
甥　松永典夫　㊞
姪　松永南夫　㊞
妹　松永靜子　㊞
姪　松永美保子　㊞
甥　高務貞子　㊞
妹　宮務允子　㊞

（十二四）

PETITION

To: Your Honor, Fownall, Rear-admiral, USN, The Commander Marianas Area.

We respectfully place this petition before Your Honor Fownall, The Commander Marianas Area, the commanding officer of the glorious United States Navy.

TANAKA, Masaharu, ex-captain, IJN, received your fair trial as a war criminal at Guam. On hearing that he was announced the sipreme sentence, we, the members of his relatives, would like to offer this petition. He, TANAKA, Masharu, entered the Navy in or about 1905 although his family condition was against it. In 1924, he thought that he could not be equal to his task and resigned from the military service. After that he was living at home as a head of his family finding his pleasure in the growth of his children. In 1941, 3 months before the out break of the Pacific War, he was forced to go to the front by the ambitious militalists in spite of his old age, and he came to wear military uniform unavoidably.

Among the members of his relatives, TANAKA, Masaharu was always mild and benevolent. He liked agriculture, loved creatures, and it was his hobby to keep birds and small animals. He was never swayed by sentiment, always had calm attitude and was of peaceful character. From his experience in the Military service, he did not like his sons to be military men, and brought them up to be cultural members of the society.

As he was in poor health and could not completely discharge his duty as a military man, he was released from the military service in March 1944, and came back to his evacuated family who were then care of MATSUSHITA, Chubei. Thus he could escape from the miserable battle field, and, while recuperating his illness, he practiced farming. We were struch with admiration to see his peaceful figure.

At that time, thise who were once on military service had inevitablly to take leadership of war as time-expired soldiers. He firmly refused todo so, and was mostly occupied in farming.

In the end of March 1946, he was suddenly summoned as a war criminal and went up to Tokyo. At his deperture, he was convinced that he never have committed crimes. We also all believed from his daily life and peaceful character that he was not a war criminal and that he would be not guilty. Of course, we are convinced that the trial of your country is fair and severe, but we were much astonished to hear his sentence and also his crime and see that he had been involved in an unexpected incident.

Originally, the Japanese military troops were bound by the feudal system. Any men had to obey the orders of their superiors, and they had no oppotunity to do things by themselves. We think, therefore, that TANAKA, Masaharu, who was nothing but a commanding officer, could not give order by his own decision whatseever.

We can not believe that TANAKA, Masaharu, who was benevolent, mild and honest, did anyway act immoral deeds. We are sure, that it is because he was ordered by his superior.

(P X1)

1037

We, the members of relatives, who have been usually well acquainted with TANAKA, Masaharu, do hereby petition together that you will try him again in your sacred court and give him lenient judgement.

Lastly, we would like to wish that the United States Navy which is exerting hard for the establishment of peace of the world, is well, and abso is Your Honor.

Respectfully,

3 January 1947

relative	MATSUNAGA, Chubei
nephew	MATSUNAGA, Hideo
nephew	MATSUNAGA, Norio
nephew	MATSUNAGA, Yoshio
sister	MATSUNAGA, Shizuko
niece	MATSUNAGA, Mieko
mother	TAKAMASHI, Sadako
sister	TAKAHASHI, Kisako

1038

(番115)

一九四七年一月六日

マリアナ方面司令官
米陸海軍中将ペーネル閣下

歎願書

我が長崎する米国軍司令官閣下
失礼とも顧みず日本の一市民より書面をもって歎願申し上げ
ます お煩わすことは存じますが何卒お聞き入れ下さいま
一九四七年十月十日頃であったと記憶致しますがその日の
日本新聞紙上にグアム島に於ける軍事裁判の記事を
発見した私の驚きと悲しみとを御推察下さいま
そこには元日本陸軍大佐田中政弼に対して上ったり島に於
に於ける俘虜の虐待の廉により極刑の判決が

1039

(第415)

あったことが報ぜられていたのであります　彼田中は私の従兄に当るものでありまして平素最も尊敬し且つ永年に亘り親しく交際を續け来り彼の人となりをよく知って居る私は彼に戦争犯罪人の汚名が及んだことを大事実かどうか疑った程でしたが裁判の結果は有罪でありしかもそれが極刑に値するものとの報道をみたときには全くあり得べからざる誤報であれかしと希望するより外ありませんでした　日本国有数道の事務官に過ぎぬ私が彼が大平洋戦争中から出されていた如何なる任務に従って居たかは詳しく又軍事裁判が如何なる手續により如何なる過程を經て終結に至るものであるかも判つて居ない私が若し向後善良の途が残されて居るものとすれば出来得べくんば無罪に、若し不可能なものとすればより軽き刑に減刑賜りたくここに次の理由を挙げて

(第413)

歓領申上ぐる次第であります
第に彼の職業軍人なる地位についてであります。彼は正規の
軍学校を了へた職業軍人ではありましたがその現役の
全部は平和裡に終始しております。平和時に於て日本の
陸軍が如何なることを企図しつゝ如何なる目的の下に維持せ
られたかは勿論私共一般人の関知せぬところでありますが彼
が未だ働き盛りの一九三八年矢学校出身者としては南昌
進し得たであろうのは中佐の階級に進んだだけで——
遅くとも五、六年は大佐に進級した——海軍を去らねばならなかった
とゆうことは恐らく職業軍人にして職業軍人らしからぬ
彼の反軍的な性格が禍したのだろうと思い
ます。然し幸か不幸かそれが却って後にも述べるよ
うな常ならぬ家人と居を共にして平和な彼の現在の家庭生
活を営み得る基礎となったものと信じます。爾来十

1041

数年の間民間にあって平和的業務に従事しつゝあったのであります。然るに
忘れ去ろうとしていた軍務に引き出されたことは彼にとって
は甚だ迷惑だったことと思います。しかもそれがため計らずも今回
を得ず応召し呉へこれた任務を遂行していた過
ざなかったことと思います。まことに彼はこむ
の如き憂き目をみるに至ったことはいかなる不幸であったかを
今更ら痛く痛感して私は彼の心中を想像している次第であり
ます
第二には彼の罪名が俘虜に対する虐待ということであります。
これは彼の性格を知る程の人は誰しも信ずることは出来ぬ
ことです。何となれば彼は怖ろしいような温好柔和な
性質の人であります。よく私は休日には農耕に
親しみ或は日当りのよい縁側に愛育の家禽や十数

1042

物に向って温和な彼の姿をみかけたものです 鳥獣に対してすら深い底の心を持って居た人でした そのような人がどうして人間に対する惨虐を行い得ましょう。 たとへ命令があってもそのような行為は行い得ぬ性格の人でした。 勿論 部隊の罪は彼自身の行為によるものでなく部下の行為に対する責任によるものだとは存じますが 斯してかゝる命令を下し得る人ではありますまし 又彼にはかゝる命令を下し得る権限もなかったことと思います 彼は日本軍において限り独断では何事もなし得ぬような人なのです 若し部下能力によっても多分他から発せられた命令によったものとしか考へられぬ事であります。 次には容疑に於ける彼の地位についてであります。

1043

(用紙15)

彼はあまり豊でない農家の出身であります。海軍よりの
堅実な生活において育てとしてその家庭生活を築き
本●に於ける普通の中流家庭を仕立上げました 妻との
間に三男一女があり男子はいづれも大学、専門学校を出
て最近に若い事務家と技術者となって二人の帰りを待て
居ります。四人の仲の睦まじさは私の最も羨しく
又美しく思って居るところであります。男子三人が
力を合せて母と妹とをいたわり暮しつゝあります まこと
に三の家庭生活は日本人の普通家庭には実に稀なみ
る平和な家庭であります。この家庭生活の平和と楽し
さも実は彼がかってその中心にあった時の彼の人格の
あらわれに因るものであります。 その彼が亡く去った
あゝ再び帰ることがなかったならばどうであります
せう。家族の悲嘆、悲愁はもとよりのこと 私の最も

1044

悲しみ且つおそれることはこの美しい平和な家庭の中心
が永久におそれられることであります。「家庭生活」に対
する当國の考方の如何によってお取り上げ願へるか
どうかはかりまえが私の考を申上げました。
御賢名なる司令官閣下
山上難然と申上げましたが深甚なる御同情と詳細
なる御審理とを以って被告田中肯利なる御裁定
を賜らんことを謹んでお願い申上げます。
名古屋市瑞穂区松見町一丁目一
加藤晴寿 (加藤)

1045

PETITION

6 January 1947

To Your Honor Fewnall, Rear-admiral,USN, The Commander Marianas Area.

Your Honor, the commanding officer of the US Forces, I, a humble citizen of Japan, would like to place this petition before you. I am afraid that it might trouble you, but I beg you to read it.

I recall it was toward the 10th of November 1946. On that day, I read in the Japanese newspaper the paragraphs concerning the military tribunal at Guam. Please imagine, how I was surprised and how I lamented it.

On the paper was written that TANAKA, Masahara, ex-captain, IJN, was given the supreme sentence because he had illtreated prisoners at Truk. He was my cousin and was a man whom I most respected. As I have known his character well, I even ~~could not believe that he was named war criminal.~~ could not believe that he was named war criminal. When I saw the report that he was found guilty and it was quite natural he was given supreme sentence, I could only hope that it was a mistake. As I am nothing but an official in the Japanese Government Railway, I could not how he was called in the Pacific war, what was his duty at that time and by what procedure he was tried in the military tribunal. But if there be a chance for him to appeal retrial, I would like to beg that you will find him not guilty, and if it is impossible, you will give him a lighter sentence. Therefore, I shall enumerate the following reasons and petition you for it.

Firstly, I would like to state about the position of the professional military officer. Although he was a professional military officer who had graduated the normal course of the Naval Academy, his active service was quite a peaceful one. Of course, it is unknown to the people in general, what purpose had the Japanese Navy in the peace time and for what aim was it maintained. But we must consider that he was promoted only to a commander (to a captain when he resigned) though he graduated Naval Academy in 1928, was still in the prime of life and was expected further promotion. The reason why he had to aquit the Navy was, I think, that he was unlike to professional officer and had a freindly, peaceful character. But it was not unhappy to him, because, after that, he could live peacefully with his family. Since then, for more than ten years, he could engage in the peaceful business in the civilian life. But at the breakout of the Pacific war, he was compelled to attend the military service which he tried to forget. I think he would have troubled very much for this. He was obliged to obey to the call, and did nothing but to discharge his duty inspite of his illness and old age. But, on account of doing so, he ~~was~~ unexpectedly had to meet his present ill-luck. How unfortunate he was ! I am now imagining how he is thinking of it at the place far away from him.

Secondly, I must consider whether he had the brutality toward the prisoners. Anyone who knows his character will be unable to believe it, because he has a very mild, gentle character which is rare among general people. Very often I saw him enjoying farming on holiday or giving feed to his favorite birds and animals on a sunny verandah and thus spening a day. Even to birds and animals, he had a deep affection. Can a man of such a character be brutal toward people? I think he

(1) (L)

1046

would be unable to do do even if he is ordered. Of course, his alleged crime was not based upon the act of himself but upon his responsibility for what his men did, I think. He is not a man who dared to give such an order, nor had he any authority to give such an order. By the Japanese expression, he was a steady person, a man who can not do anythink by his own decision without order. If his men commited such brutality by the order, I can only imagine that the order was issued by other person.

Next, I would like to state his position in his family. He was born in a poor farmer's family. Since he entered the Navy, he continued a steady life keeping his household economy, so that his family became a middle class one in Japan. He had three sons and one daughter with his wife. All of his sons graduated university or college, became young business man or engineers, and are waiting for their father's coming back. These brothers and sister with his wife are ~~affectionate~~ so affectionate each other that I think they are the most fine people and sometimes envy them. His three son unite together and take good care of their mother and sister. Indeed, their family life is exceedingly cheerful which is rare in Japanese families. This peace and cheerfulness of family life owes much to his character when he was the center of the family. How they will fell when he will not be bank after he went far away. It is unnecessary to state that the family will be in deep sorrow. But what I feel most lamentable and afraid is that the center of this fine family will never be obtained. I think that your way of thinking about family life is different from that of ours, and I am afraid that you will not understand ~~but~~ opinion. But, I stated what I am thinking.

Your Honor, the Commander, although my statement was very confused, I beg you will have deep sympathy and deliverate judgement for the accused TANAKA, and you will give him a lenient decision.

KATO, Hisashi
1 of 1 Sakurami-cho, Mizuho-ku,
Nagoya-shi.

1047

Cincpacflt File

P8-5

Serial 2429

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

FIRST ENDORSEMENT on ComMARIANAS letter WW12/P8-5 13-REF-arh serial10877 dated 10 April 1947.

16 APR 1947

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.

Subject: Masaharu TANAKA, Captain, Imperial Japanese Navy, convicted war criminal - petitions in behalf of.

Reference: (a) Cincpacflt serial 20 dated 3 January 1947.
(b) Cincpacflt serial 1273 dated 27 February 1947.

1. Forwarded.

2. The record of proceedings of trial by military commission of Captain Masaharu TANAKA, IJN, et. al., was forwarded by reference (a). Reference (b) forwarded a previous petition in behalf of TANAKA.

3. No further action is contemplated by Cincpacflt.

Copy to: (1st end. only)
ComMARIANAS

W. D. LONG
Assistant Chief of Staff
for Administration

1048

7

FF12/FS-5
13-MMF-mrh

10 APR 1947

10877

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.

Subject: Masaharu TANAKA, Captain, Imperial Japanese Navy, convicted war criminal - petitions in behalf of.

Enclosures: (A) Original petition in Japanese from Sukeshichiro OKUDA and twenty others dated 7 December 1946.
(B) English translation of Enclosure (A).
(C) Original petition in Japanese from the wife and four children of Tanaka dated 1 January 1947.
(D) English translation of Enclosure (C).
(E) Original petition in Japanese from Chubei MATSUNAGA and seven other relatives dated 3 January 1947.
(F) English translation of Enclosure (E).
(G) Original petition in Japanese from Tokutaro SUMIYAMA and eleven others dated 4 January 1947.
(H) English translation of Enclosure (G).
(I) Original petition in Japanese from Eiichi MATSUNAGA and twenty-three others dated 5 January 1947.
(J) English translation of Enclosure (I).
(K) Original petition in Japanese from Hisashi KATO dated 6 January 1947.
(L) English translation of Enclosure (K).

1. Enclosures (A) through (L) were received by Commander Marianas 7 April 1947 and are forwarded for such action as the Secretary of the Navy may consider appropriate.

2. Subject War Criminal was tried and convicted before a Military Commission convened by the Commander Marianas, at Guam, Marianas Islands 5 November 1946. He is now confined at Guam, Marianas Islands, pending confirmation of the death sentence adjudged in his case.

3. The proceedings, findings, and sentence in Tanaka's case were approved by the convening authority, 21 December 1946 and by the Commander in Chief, U. S. Pacific Fleet 3 January 1947. The record of the proceedings, (Record of Proceedings of a Military Commission - case of Captain Masaharu Tanaka, IJN, et al) was forwarded to the Secretary of the Navy for confirmation of the death sentence.

4. The writers of the enclosures have not been advised of this reference nor has this office acknowledged to them receipt thereof. No further action is contemplated by Commander Marianas.

C. A. POWNALL

1049

7

A12/10-5
[illegible]

10877

10 APR 1947

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.

Subject: Masaharu TANAKA, Captain, Imperial Japanese Navy, convicted war criminal - petitions in behalf of.

Enclosures: (A) Original petition in Japanese from Subochiefire OKUDA and twenty others dated 7 December 1946.
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4. The writers of the enclosures have not been advised of this reference nor has this office acknowledged to them receipt thereof. No further action is contemplated by Commander Marianas.

C. A. POWNALL

1050

7

A12/FC-5
13-MHP-mh

10877

10 APR 1947

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.

Subject: Masaharu TANAKA, Captain, Imperial Japanese Navy, convicted war criminal - petitions in behalf of.

Enclosures (A) Original petition in Japanese from Subeshichiro OKUDA and twenty others dated 7 December 1946.
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4. The writers of the enclosures have not been advised of this reference nor has this office acknowledged to them receipt thereof. No further action is contemplated by Commander Marianas.

C. A. POWNALL

1051

2501

1050

嘆願書

第四十二警備隊司令海軍大佐
田中政治ニ對スル減刑嘆願書

去ル昭和二十一年十一月十七日マリアナ軍事裁判デ
上記ノ田中政治ニ對シ絞首刑ノ宣告ノアッタコトハ
同人ニ附ケラレタ辨護人伊藤憲郎氏カラ聞キマシタ。
田中政治ノ性格ハ極メテ温順デ人情味ニ厚ク特ニ
上司ノ意圖ニアエテ背クコトノナイノヲ旨トシテ居タコトハ
若イ頃カラ今日ニ至ル長イ間ノ友人タチノ一致シタ
意見デアリマス

コノ様ナ性格ノ同人ガ上司カラ預ケラレタ捕虜ヲ
悪意ヲモッテ勝手ニ殺害シタトハ私共ノ齊シク信ジ
得ラレナイ處デアリマス
事件ハ連續空襲ノ混乱裡ニ上級司令部ノ指示
ガアッタトノ報告ヲ得タタメニアエテ制止スルコトモ出來
ズソノママデ行ワレタ事情ヲモ御酌ミトリ下サイマシテ何
トカ寛大ナ御考慮ヲシテイタダク譯ニハマイリマスマ
イカ
コノコトハ同人ノ心カラナル御願ヒヲ閣下ニイ

105

タス次第デゴザイマス

昭和二十二年一月四日

東京都世田谷區赤堤町一ノ三三　住山徳太郎

東京都中野區鷺宮四ノ四八五　和田秀穂

東京都大森區馬込町東四ノ三八五　工藤健次郎

東京都豊島區西巣鴨四ノ三二〇。　羽鳥敬之助

東京都世田谷區北澤町三八七　久原福松

東京都世田谷區等々力町三ノ七一三三　好子

神奈川縣逗子市大町三七一　小山與四郎

鎌倉市一ノ一三一。　中村忠

鎌倉市材木座三四三　名古屋十郎

鎌倉市大町二二七　横山馨

鎌谷市大町浄土寺。　平野武雄

東京都世田谷區新町一ノ八。　北正一郎

マリアナ方面司令官

米國海軍中將　パーネル閣下

PETITION

Petition for clemency of TANAKA, Masaharu, Captain, IJN, the commanding officer of the ex-42nd Naval Guard Unit.

We have heard from Mr. ITO, Kenro, the defense counsel of TANAKA, Masaharu, that he was sentenced "hang" at the Marianas Military Court on 17 November 1946. It is the general reputation among his friends for a long time since he was young up till now that the character of TANAKA, Masaharu is very mild and benevolent and he never dared to disobey to his superiors.

He is of such a character that we all can not believe he maliciously and wilfully killed the priseners who were put in charge of him from his superior.

At the time of the incident, they were in confusion by continuous air-raids. He happened to receive the report that there was the direction from the senior headquarters, so that the execution took place being unable to stop it. We beg that you will have consideration for this situation and that you will deal leniently with him.

We, his intimate friends, hereby petition you from all our hearts.

4 January 1947

SUMIYAMA, Tokutaro. 33 of 1 Akatsutsumi-machi, Setagaya-ku, Tokyo.

WADA, Hidenori. 485 of 4 Saginomiya, Nakanoku, Tokyo.

KUDO, Kenjiro. 385 of Higashi-4 Magome-machi, Omori-ku, Tokyo.

HADORI, Ikunosuke. 320 of 4 Nishisugamo, Toshima-ku, Tokyo.

HISAHARA, Fukumatsu. 877 of 3 Kamikitazawa-machi, Setagaya-ku, Tokyo.

MIYOSHI, Shichiro. 7123 of 3 Toteriki-machi, Setagaya-ku, Tokyo.

KOYAMA, Yoshiro. 2371 Omachi, Kamakura-shi.

NAKAMURA, Shinobu. 1310 O-machi, Kamakura-shi.

NAGOYA, Juro. 243 Zaimokuza, Kamakura-shi.

YOKOYAMA, Kaoru. 2287 O-machi, Kamakura-shi.

HIRANO, Takeo. 160 Tsunetsuji, O-machi, Kamakura.

(1)
(H)

1055

KITA, Sheichiro. 80 of 1 Shin-machi,
Setagaya-ku, Tokyo.

To: C.A.Pownall, Rear-admiral, USN, The Commander Marianas Area.

1056

嘆願書

マリアナ方面司令官
米國海軍中將パーネル閣下

暑に私共は失禮をも顧みず私共が日頃敬慕してやまなかつた　元海軍大佐田中政治さんの為に
貴國戰犯裁判官閣下に嘆願書を以て上申したのであります
すが今度重ねて
閣下に嘆願書を提出しまして閣下の御銘鑑に訴へることに致しました。去る一、九四六年十二月十六日頃の日本新聞でがム島の貴國軍事裁判の結果田中さんが極刑の宣告を受けたといふ記事を見て只々

驚愕致しました。新聞記事によりますと貴國の捕虜を七人も殺害した罪責を問はれたといふことでした私共はあの温厚篤實人情味豊かな田中さんが此の様な野蠻的行為を獨斷專行する人であらうとは夢々信ぜられません、この事實には何か田中さんの當時の直屬上官より強硬なる命令がありたことと信じます既に御審理の記録の上で御承知のことと存じますが田中さんは一、九四三年末頃より一、九四四年二月中旬頃まで召集によりまして老骨を提げトラックがム島へ赴いたものの様であります幸ひ病を得て僅々二ヶ月足らずで歸還せられたのであります、此の間トラック島に於ても引續

り勝にて軍務の遂行せられ十分であつたようにきいてゐます。拝承するに近く閣下御統轄の下最終の御裁決を仰ぐ機會が與へられるそうこと、私共は此の千載一遇の天恵の好機に於て貴國人七人迄も殺害したといふ此の重大なる事柄に対しかゝる命令がどこから發令せられ且如何なる經路を辿つて何人が此の犯行を實行するに至つたかの眞相と此の因果関係に於て田中さんが如何なる地位と役割を持つたかを御糺明下さいますと同時に今一度此の最終の機會に田中さんに自由なる陳述の機會を御與へ下さいまして之に基き神聖にして公平御寛仁なる御裁判を宣し賜らんことを伏而懇願する次第であります。田中さんの減刑を希念するの餘り文中或は失禮なる言辞あるを幾重にも御詫申上げ茲に深謝致します。

終りに臨み閣下並に麾下軍隊の御健勝を世界恒久平和のため御祈り致します。

昭和二十二年一月五日

十二頁

松永繁一
松永彦八
松永政助
喜多喜八郎
石橋隆夫
松永正一
小山秀夫
小山ハセ
松永久
吉川修吉
松永小市
己墨染平

松形萬一
松永㐂平
松永清八
松永忠平
中村定
夏目又也
石橋盛夫
石橋秀大
植地明
植村静六
大原英雄
大原早苗

十二

PETITION

To Your Honor Pownall, Rear-admiral, USN, The Commander Marianas Area.

We once presented petition before Your Honor the President of your country in behalf of ex-Captain TANAKA, Masaharu whom we always admired, but we would like to place this petition again beefre you and ask your kind consideration.

On or about 16 December 1946, we saw in the Japanese new paper that TANAKA was verdicted the supreme sentence after the military trial of your country at Guam. We are very much surprised of it. According to the newspaper he was accused for having murdered six prisoners of war of your country. But we can not believe that TANAKA who was a mild, sincere and benevolent person should have done such a brutal act by his own decision. We believe that there surely was a compulsory order from his direct superior. As you have known during the trial, TANAKA was called in his old age and was at Truk since the end of 1943 till the middle of February 1944, but, on accout of his illness, he stayed there only less than two months and was repatriated. We have heard that during that time on Truk he was apt to retiring and was insufficient in discharging his duty. We hear that he has one more chance to beg the last decision under your supervision. In this oppurtunuty, we would like to hope that you will examine who gave the order for this serious event of killing seven men of your country, by what means and who came to commit this crime what were the posetion and part of TANAKA in this consequences. We also beg you to give TANAKA the last oppertunity to make his voluntary statement, and according to the statement you will hold a sacred fair and benevolent trial. We are so anxious to the mitigation of TANAKA that we are afraid that there might be some impolite words in this petition, if so, we would like pardon you for our impoliteness.

Lastly, we would like to wish that Your Honor and your unit are well for the sake of the eternal peace of the world.

5 January 1947

MATSUNAGA, Eiichi
MATSUNAGA, Tohachi
MATSUNAGA, Masasuke
KITA, Kajuro
ISHIBASHI, Takao
MATSUNAGA, Shoichi
OYAMA, Tamee
OYAMA, Ise
MATSUNAGA, Hisashi
YOSHIKAWA, Katsuyoshi
MATSUNAGA, Keichi
TAMAOKI, Shimpei
MATSUNAGA, Maniehi
MATSUNAGA, Kahei
MATSUNAGA, Seihachi
MATSUNAGA, Chuhei
NAKAMURA, Sada
NATSUME, Chuya
ISHIBAHSI, Morie
ISHIBASHI, Hideo
UECHI, Akira
UEMURA, Seireku
OHARA, Hideyoshi
OHARA, Sanae

(J)

JAGS:ben
A17-10/CQ WB1934-154637
(4-8-47)

8 APR 1947

From: The Secretary of the Navy.
To: Commander Marianas Area.
Via: Commander in Chief, United States Pacific Fleet.

Subj: Action upon records of Military Commissions.

1. In accordance with the provisions of Section D-14, Naval Courts and Boards, 1937, the Acting Secretary of the Navy has this date confirmed the following sentences of death, adjudged by Military Commissions:

(a) In the case of Lieutenant Colonel Kikuji Ito, Imperial Japanese Army, tried in joinder with Captain Seiji Higashiki, Imperial Japanese Army, Captain Shigeo Ikawa, Imperial Japanese Army and Leading Private Ciro Shimura, Imperial Japanese Army, by a military commission, convened 5 April 1946, by the Commander Marianas Area -

"The Commission therefore sentences Maj. Ito, Kikuji, Lieutenant Colonel, Imperial Japanese Army, to be hanged by the neck until dead, two-thirds of the members concurring."

The Commander, Marianas Area, the convening authority, on 20 July 1946, subject to remarks, approved the proceedings, findings and sentence, in this case.

The Commander in Chief, United States Pacific Fleet, the reviewing authority, on 17 August 1946, approved the proceedings, findings and sentence, in this case, and the action of the convening authority thereon.

(b) In the case of Captain Meshiharu Tanaka, Imperial Japanese Navy, tried in joinder with Lieutenant Commander Tamotsu Hamachi, Imperial Japanese Navy, and Lieutenant junior grade, Toshiharu Yoshimura, Imperial Japanese Navy, by a military commission, convened 15 October 1946 by the Commander Marianas Area -

"The commission, therefore, sentences him, Tanaka, Meshiharu, Captain, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

The Commander, Marianas Area, the convening authority, on 8 November 1946, approved the proceedings, findings of guilty, and sentence, in this case.

The Commander in Chief, United States Pacific Fleet, the reviewing authority, on 8 January 1947, subject to remarks, approved the proceedings, findings of guilty, and sentence in this case, and the action of the convening authority thereon.

REG. No. 3227312
extra

BEST COPY AVAILABLE

JAG:InMDS:bem
A17-10/QQ 151234 - 154637
(4-2-47)

2. Subject to any directives issued by the Commander in Chief, United States Pacific Fleet, not inconsistent with this directive, the Commander Marianas Area is hereby directed to effect the execution of the sentences as confirmed. It is further directed that the sentences be carried into effect at a date to be designated by the Commander Marianas Area not earlier than 1 June 1947, at Guam, Marianas Islands, and that a report of the execution of the death sentence in each instance be submitted to the Secretary of the Navy.

JOHN L. SULLIVAN
Acting Secretary of the Navy.

CC:
Chief of Naval Operations

BEST COPY AVAILABLE

16 April 1947

MEMORANDUM

To: The Under Secretary of the Navy

This case follows the general policy. Captain Tanaka (sentenced to hang) ordered the execution of seven prisoners of war. The other two officers sentenced to life imprisonment carried out the execution. I recommend approval.

Very respectfully,

O. S. COLCLOUGH

RECEIVED
17 APR 1947
OFFICE OF JUDGE
ADVOCATE GENERAL
U.S.A. BERLIN

ADDRESS REPLY TO

AND REFER TO

JAG:I:EJM:bem
Mil. Com. - TANAKA, Masaharu/
A17-20 (4-14-47) 154637

NAVY DEPARTMENT
WASHINGTON 25, D. C.

16 APR 1947

The sentence of death, to be executed by hanging by the neck until dead, in the foregoing Military Commission case of Captain Masaharu Tanaka, Imperial Japanese Navy, tried in joinder with Lieutenant Commander Tomeroku Danzaki, Imperial Japanese Navy, and Lieutenant (junior grade) Yoshiharu Yoshinuma, Imperial Japanese Navy, is hereby confirmed.

John L. Sullivan

Acting Secretary of the Navy.

1064

In reply refer to Initials and No.

Op22D-FLF
Serial No. 214P22

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

for PEACE
SAVINGS BONDS

12 MAR 1947

RECEIVED
12 MAR 1947
OFFICE OF JUDGE ADVOCATE GENERAL

End-1
On Office of JAG Record of Proceedings, Tanaka, Masaharu/ Danzaki, Tomeroku/Yoshinuma, Yoshiharu/ A17-10/0Q I (2/10/47) fld.

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

Subject: Record of Proceedings of Military Commission at Guam in the cases of Masaharu Tanaka, Tomeroku Danzaki and Yoshiharu Yoshinuma.

1. Returned, contents noted.

W. F. Jennings,
By direction.

RECEIVED
12 MAR 1947
OFFICE OF JUDGE ADVOCATE GENERAL
C.C.M. SECTION

1065

JAG:I:OH:fld
TANAKA,Masaharu/A17-10/0Q
I (2/10/47)

MILITARY COMMISSION CASE OF CAPTAIN MASAHARU TANAKA, I.J.N., TRIED IN JOINDER WITH LIEUTENANT COMMANDER TOMEROKU DANZAKI, I.J.N., AND LIEUTENANT, JUNIOR GRADE, YOSHIHARU YOSHINUMA, I.J.N., ON 5 NOVEMBER 1946.

		PLEA	FINDING	C/ACTION
CHARGE I	MURDER	NG	G	Approved
Spec.	Struck with dangerous weapons and killed American prisoners of war.	NG	proved	Approved
CHARGE III	NEGLECT OF DUTY IN VIOLATION OF THE LAWS AND CUSTOMS OF WAR.	NG	G	Approved
Spec.	Failed to properly protect and take steps to prevent unlawful killing of seven (7) American prisoners of war by members of his command.	NG	proved	Approved
Spec.	Failed to restrain members of his command from unlawfully killing seven (7) American prisoners of war.	NG	proved	Approved

SENTENCE Death by hanging.

ACTION OF CONVENING AUTHORITY Proceedings, findings and sentence approved, subject to remarks.

ACTION OF REVIEWING AUTHORITY Proceedings, findings and sentence approved, subject to remarks concerning failure of record to note presence of interpreters.

FACTS Seven (7) American prisoners of war on Truk Atoll were on 17 February 1944 beheaded. The order for their execution was issued by the accused TANAKA who was in command of the unit responsible for the custody of the deceased to the admiral in command of Truk Naval Base, who in turn was responsible to the admiral commanding the Japanese 4th Fleet based at Truk. The accused DANZAKI and YOSHINUMA executed the order issued by TANAKA. The latter testified that his executive officer had told him that the Base Commander had directed that the prisoners be executed. The executive officer (by affidavit) stated that he telephoned to "headquarters" (presumably 4th Fleet Headquarters) for instructions and an unknown voice directed the killingof the prisoners.

EFFECT OF PREPARED ACTION Passed as legal.

10bb

JAG:I:OH:fld
YOSHINUMA, Yoshiharu/A17-10/0Q
I (2/10/47)

MILITARY COMMISSION CASE OF LIEUTENANT, JUNIOR GRADE YOSHIHARU YOSHINUMA, I.J.N., TRIED IN JOINDER WITH CAPTAIN MASAHARU TANAKA, I.J.N., AND LIEUTENANT COMMANDER TOMEROKU DANZAKI, I.J.N., ON 5 NOVEMBER 1946.

		PLEA	FINDING	C/A ACTION
CHARGE I	MURDER	NG	G	Approved
Spec.	Struck with dangerous weapons and killed American prisoners of war.	NG	Proved	Approved
CHARGE II	ASSAULT WITH INTENT TO COMMIT MURDER	NG	NG - Acquitted	
Spec.	Without proper trial, assaulted, struck and stabbed one (1) American prisoner of war.	NG	not proved	

SENTENCE Confinement for his life.

ACTION OF CONVENING AUTHORITY Proceedings, finding and sentence approved, subject to remarks.

ACTION OF REVIEWING AUTHORITY Proceedings, finding and sentence approved, subject to remarks concerning failure of record to note presence of interpreters.

FACTS Seven (7) American prisoners of war on Truk Atoll were on 17 February 1944 beheaded. The order for their execution was issued by the accused TANAKA who was in command of the unit responsible for the custody of the deceased to the admiral in command of Truk Naval Base, who in turn was responsible to the admiral commanding the Japanese 4th Fleet based at Truk. The accused DANZAKI and YOSHINUMA executed the order issued by TANAKA. The latter testified that his executive officer had told him that the Base Commander had directed that the prisoners be executed. The executive officer (by affidavit) stated that he telephoned to "headquarters" (presumably 4th Fleet Headquarters) for instructions and an unknown voice directed the killing of the prisoners.

EFFECT OF PREPARED ACTION Passed as legal.

JAG:I:OH:fld
DANZAKI, Tomeroku/A17-10/0Q
I (2/10/47)

MILITARY COMMISSION CASE OF LIEUTENANT COMMANDER TOMEROKU DANZAKI, I.J.N., TRIED IN JOINDER WITH CAPTAIN MASAHARU TANAKA, I.J.N., AND LIEUTENANT, JUNIOR GRADE, YOSHIHARU YOSHINUMA, I.J.N., ON 5 NOVEMBER 1946.

		PLEA	FINDING	C/A ACTION
CHARGE I	MURDER	NG	G	Approved
Spec.	Struck with dangerous weapons and killed American prisoners of war.	NG	proved	Approved
CHARGE II	ASSAULT WITH INTENT TO COMMIT MURDER	NG	NG - Acquitted	
Spec.	Without proper trial, assaulted, struck and stabbed one (1) American prisoner of war.	NG	not proved	

SENTENCE Confinement for his life.

ACTION OF CONVENING AUTHORITY Proceedings, findings and sentence approved, subject to remarks.

ACTION OF REVIEWING AUTHORITY Proceedings, findings and sentence approved, subject to remarks concerning failure of record to note presence of interpreters.

FACTS Seven (7) American prisoners of war on Truk Atoll were on 17 February 1944 beheaded. The order for their execution was issued by the accused TANAKA who was in command of the unit responsible for the custody of the deceased to the admiral in command of Truk Naval Base, who in turn was responsible to the admiral commanding the Japanese 4th Fleet based at Truk. The accused DANZAKI and YOSHINUMA executed the order issued by TANAKA. The latter testified that his executive officer had told him that the Base Commander had directed that the prisoners be executed. The executive officer (by affidavit) stated that he telephoned to "headquarters" (presumably 4th Fleet Headquarters) for instructions and an unknown voice directed the killing of the prisoners.

EFFECT OF PREPARED ACTION Passed as legal.

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GEN

AND REFER TO

TANAKA, Masaharu/
DANZAKI, Tomeroku/
YOSHINUMA, Yoshiharu/
A17-10/0Q
I (2/10/47) fld

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

The proceedings, findings, and sentences in the foregoing military commission case of Captain Masaharu Tanaka, I.J.N., Lieutenant Commander Tomeroku Danzaki, I.J.N., and Lieutenant, junior grade, Yoshiharu Yoshinuma, I.J.N., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op22) for information.

O. S. Colclough
Judge Advocate General of the Navy

1069

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE G

AND REFER TO

TANAKA, Masaharu/
DANZAKI, Tomeroku/
YOSHIZUMA, Yoshiharu/
A17-10/QQ
I (2/10/47) rld

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

The proceedings, findings, and sentences in the foregoing military commission case of Captain Masaharu Tanaka, I.J.N., Lieutenant Commander Tomeroku Danzaki, I.J.N., and Lieutenant, junior grade, Yoshiharu Yoshizuma, I.J.N., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op22) for information.

O.S. COLCLOUGH
Judge Advocate General of the Navy

1070

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GE

AND REFER TO

TANAKA, Masaharu/
DANZAKI, Tomeroku/
YOSHIMUMA, Yoshiharu/
A17-10/QQ
I (2/10/47) fld

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

The proceedings, findings, and sentences in the foregoing military commission case of Captain Masaharu Tanaka, I.J.N., Lieutenant Commander Tomeroku Danzaki, I.J.N., and Lieutenant, junior grade, Yoshiharu Yoshimuma, I.J.N., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op22) for information.

O.S. COLCLOUGH
Judge Advocate General of the Navy

1071

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GE

AND REFER TO

TANAKA, Masaharu/
DANZAKI, Tomeroku/
YOSHIZUMA, Yoshiharu/
A17-10/QQ
I (2/10/47) rld

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

The proceedings, findings, and sentences in the foregoing military commission case of Captain Masaharu Tanaka, I.J.N., Lieutenant Commander Tomeroku Danzaki, I.J.N., and Lieutenant, junior grade, Yoshiharu Yoshizuma, I.J.N., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op22) for information.

O.S. COLCLOUGH
Judge Advocate General of the Navy

1072

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE G

AND REFER TO

TANAKA, Masaharu/
SANZAKI, Tomoroku/
YOSHIMURA, Yoshiharu/
A17-10/ac
X (2/10/47) 214

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

The proceedings, findings, and sentences in the foregoing military commission case of Captain Masaharu Tanaka, I.J.N., Lieutenant Commander Tomoroku Sanzaki, I.J.N., and Lieutenant, junior grade, Yoshiharu Yoshimura, I.J.N., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (OpNI) for information.

O.S. COLCLOUGH
Judge Advocate General of the Navy

1073

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE G

AND REFER TO

TANAKA, Minoharu/
DANZAKI, Tomoroku/
YOSHIMURA, Yoshiharu/
A17-10/QC
X (2/10/47) 214

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

The proceedings, findings, and sentences in the foregoing military commission case of Captain Minoharu Tanaka, I.J.N., Lieutenant Commander Tomoroku Danzaki, I.J.N., and Lieutenant, junior grade, Yoshiharu Yoshimura, I.J.N., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (OpNav) for information.

O.S. COLCLOUGH
Judge Advocate General of the Navy

JAG:I:[redacted]:mmo

27 February 1947

MEMORANDUM FOR CAPTAIN MANEY

Subj: Military Commission case of Captain Tanaka, Imperial Japanese Navy. (Docket No. 154657)

1. The record in this case does not clearly establish whether any responsible officer at the Japanese Base Headquarters issued an order to execute the American prisoners. (Record pp. 74 Q.12; 76 Q.42; 77 Q.64; 79 Q.90, 92, 94; also Exhibit 2.) The proposal to execute prisoners originated with an ensign under the command of the accused. The accused testified that he, himself, was opposed to the execution, but that he (the accused) told a lieutenant to submit the issue to the Base Commander. The lieutenant later reported to the accused that the Base Commander had ordered the execution. Thereupon, without checking with Base Headquarters, or even ascertaining how the lieutenant had obtained his information from Base Headquarters, the accused directed the lieutenant to carry out the execution. (Record p. 82 Q.12)

2. If the Base Commander ordered the execution, it appears that the accused is guilty equally with the Base Commander of murder. If the Base Commander did not order the execution, it appears that the accused is guilty of neglect of duty in that he failed adequately to investigate the authenticity of the communication of his subordinate with the Base Commander.

3. In view of the above, it is considered that the findings of guilty under Charges I and III are justified and that the case should be passed as legal.

N. D. SYLVESTER
CAPT., U.S. NAVY

Cincpacflt File

A17-25

Serial 1273

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

RECEIVED
3 MAR 1947
OFFICE OF JUDGE
ADVOCATE GENERAL

FIRST ENDORSEMENT on
ComMARIANAS ltr. FF12/
P8-5/13-JDM-rrm ser.
3684 dtd 21 Feb 1947.

27 FEB 1947

#154637

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.

Subject: Petition in the case of TANAKA, Masaharu, former Captain, Imperial Japanese Navy, convicted war criminal.

Reference: (a) Cincpacflt Ser. 20 dated 3 Jan 1947.

1. Forwarded.

2. The record of proceedings of the trial by military commission of TANAKA, Captain, Imperial Japanese Navy and others was forwarded by reference (a).

V. D. LONG
Assistant Chief of Staff
for Administration

Copy to:
ComMARIANAS

RECEIVED
APR 2 1947
OFFICE OF JUDGE
ADVOCATE GEN'L
C.M. SEC'T.

1076

Cincpacflt File

A17-25
Serial 1273

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

FIRST ENDORSEMENT on ComMARIANAS ltr. FF12/ PG-5/13-JDH-rru ser. 3684 dtd 21 Feb 1947.

2 7 FEB 1947

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.

Subject: Petition in the case of TANAKA, Masaharu, former Captain, Imperial Japanese Navy, convicted war criminal.

References: (a) Cinepacflt Ser. 20 dated 3 Jan 1947.

1. Forwarded.

2. The record of proceedings of the trial by military commission of TANAKA, Captain, Imperial Japanese Navy and others was forwarded by reference (a).

V. D. LONG
Assistant Chief of Staff
for Administration

Copy to:
ComMARIANAS

1077

[redacted]

[redacted]/70-W/
13-[redacted]

3684

21 FEB 1947

From: Commander Marianas.
To : Secretary of the Navy (Judge Advocate General).
Via : Commander in Chief, U. S. Pacific Fleet.

Subject: Petition in the case of TANAKA, Masaharu, former captain, Imperial Japanese Navy, convicted war criminal.

Enclosure: (A) Subject petition dated 10 December 1946.

1. The subject named war criminal was on 14 November 1946 convicted by a military commission convened by Commander Marianas. (Military Commission Order #95, dated 21 December 1946.) The record in his case has been forwarded to the Secretary of the Navy. Enclosure (A) was received by Commander Marianas from the Supreme Commander Allied Powers, and is forwarded for information and such action as may be considered appropriate.

2. Commander Marianas considers that Enclosure (A) contains no new evidence, and contemplates no further investigation or action in this matter. No reply has been made to the writers of the subject petition by Commander Marianas.

C. A. POWNALL.

1078

FF12/P8-5/
13-JDM-rtm
Serial:

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

3684

FEB 25 3 PM 1947 21 FEB 1947

From: Commander Marianas.
To : Secretary of the Navy (Judge Advocate General).
Via : Commander in Chief, U. S. Pacific Fleet.

Subject: Petition in the case of TANAKA, Masaharu, former captain, Imperial Japanese Navy, convicted war criminal.

Enclosure: (A) Subject petition dated 10 December 1946.

1. The subject named war criminal was on 14 November 1946 convicted by a military commission convened by Commander Marianas, (Military Commission Order #35, dated 21 December 1946.) The record in his case has been forwarded to the Secretary of the Navy. Enclosure (A) was received by Commander Marianas from the Supreme Commander Allied Powers, and is forwarded for information and such action as may be considered appropriate.

2. Commander Marianas considers that Enclosure (A) contains no new evidence, and contemplates no further investigation or action in this matter. No reply has been made to the writers of the subject petition by Commander Marianas.

C. A. Pownall

C. A. POWNALL

1079

December 10, 1946.

The Honorable Supreme Commander of the
Pacific Area, U. S. Navy.

Dear Sir:

We, as the subjects of Japan, are grateful to you for the remarkable fact that Japan is regaining day by day peace and freedom under your most fair and proper occupation policy. With respect to the war tribunal which is executed primarily under the guidance and direction of the U.S.A., we have always cherished in mind with respect and reliance your noble effort in christian spirit to guide the court so as to avoid any false accusation or not to permit any real criminal who should be accused would continue a servile existence.

However, all our family is dubious and distrust the verdict which was given to our father lately, of which all of us even think that it may defile the sanctity of the court. In this respect, we wish to appeal to you for re-examination of our father's case in the light of all the evidences which were collected among our family and acquaintances as noted below:

The name of our father is Masaharu Tanaka who was then Captain of the Navy in the first reserve (~~at present he is Rear-admiral in the first reserve~~ Masahide). On April 1, 1946, he was interned in Sugamo Prison as a suspect of the war criminal on Truck Island and was taken to the Guam Island war trial court on around April 20th, 1946. The trial was opened on November 5th, 1946 on the suspect of "Beheading and stabbing seven American prisoners of war on Truck, February 18, 1944" and the official information dated November 16th to the effect that our father was condemned to death penalty was received by us on November 27th.

We by no means are complaining to you, on account of sentimental emotion between father and children, against the verdict of the court if it were given to him against his actual criminal acts. By chance it happened that the defendant was our father. Having been confided with all the details from the defendant, there exists some contradiction between the verdict of the court and the facts narrated to us by our father. We firmly believe that our father would never

"ENCLOSURE A"

make a false statement from the view of righteous idea toward the children. Thus we wish to file with you a petition to re-examine the case of our father presenting to you all the facts confided to us direct -ly by him as a new evidence together with a brief history of our father which would serve to warrant the defendant is such a righteous person as he would never make a false statement.

Career of our father in the Pacific War:

September 8, 1941.	Called to join the Navy. Appointed as the Commander of the transport ship "Shohei Maru".
December 8, 1941.	Outbreak of the Pacific War.
December 15, 1943.	Appointed as the Commander of Garrison on the Truck Island.
~~December 19, 1944.~~	~~Attached to Yokosuka Naval Base.~~
February 21, 1944.	Left the Truck Island. Attached to Nagoya Naval Office and commuted from his own home in Nagoya.
March 1, 1945.	Placed on the waiting list.

All the family members were united again upon his return to Nagoya from Truck Island on February 21, 1944 and had good opportunity to hear from him all about the life on Truck Island. He repeatedly pointed out in his talk about the inadequate defense of Truck and about the military operation of the U.S. Navy on Truck which was such an orderly one, quite contrary to what we heard through the propaganda in Japan. We also heard from him that a big air bombing of February 17th, 1944 was such an excellent operation and that the whole island was put in a chaotic condition.

At the same time we also inquired him about the American prisoners of war on Truck. According to our father, there were no American prisoners of war when he arrived at Truck on December 15th, 1943, even though it was reported that crews of U.S. submarines were held as war prisoners there before. These prisoners of war, however, were already sent over to the Japan mainland on aircraft carriers and submarines before his arrival at the Island. It happened that at the big air bombing of February 17th on Truck an American officer was held as a prisoner. As there were no prisoners' camp on Truck, it was ordered to keep him in the Garrison for a few days until any available boat for

"ENCLOSURE A"

Japan would come in. The prisoner officer was kept in custody according to the regulations but he was sent to Japan on an airplane before or right after our father's return to Japan on February 21st, having been ordered to work at Nagoya. We have been told by our father that the said prisoner repatriated to the U.S.A. right after the unconditional surrender of Japan on August 15, 1945. Whenever he talks about the things on Truck, our father was always admiring the splendid attitude of American soldiers.

The above is the brief outline what we have heard from our father According to his remark, as far as our father knows, there was not a single prisoner of war on Truck until the big air-bombing in the midnight of February 17th. Even a prisoner of war who was held in custody at the time of that big air-bombing on Truck had been treated as mentioned above and already repatriated safely to the U.S.A. Summing up the above, therefore, there was not a single American prisoner on Truck as of February 18, 1944, to say nothing of seven prisoners of war to be "beheading and stabbing" as mentioned in the report of November 16, 1946.

Prior to his departure for Guam Island, at the time of our interview with him at Sugamo Prison, he confided to us that "it is extremely sad and ironical to be inquired at and moreover be compelled to take all the burden of responsibility on the matters which I have no knowledge at all." Inferring from the above facts, the murder case of seven American prisoners of war might have been conducted in different time and place without any connection whatsoever with our father, against which he was charged responsible just because he had been the Commander of the Garrison.

With these new evidences as mentioned above, we earnestly appeal to you to re-examine our father's case and to provide a fair and correct judgement which may not only console the inner conscience of our father but may satisfy everyone of us.

Faithfully yours,

Son :- Masahide Tanaka
Son :- Masatada Tanaka
Son :- Masataka Tanaka
Wife Fumiko Tanaka
Daughter, Reiko Tanaka
Daughter-in-law, Suzuko Tanaka

1082

THE OUTLINE OF OUR FATHER'S CAREER

Our father was the second son of a poor farmer. He resolved himself to become a soldier by profession to overcome his distressed living conditions. So he enlisted in the Navy. However, his innate character of gentleness and honesty was unfit for the Navy soldier. Consequently he resigned the Navy in 1927. Since then during the depression days he fought out himself in the strife of life to raise three sons and a daughter with his meager income from a pier master of Nagoya Harbor. By dint of his indifatigable effort and guidance, we boys had escaped from being soldiers but educated in most liberal and useful way for the cultural field specializing economics, law and engineering respectively. In his recent years he took to his heart watching the favorable development of the children and was enjoying the tranquility of his private life.

Inspite of his old age, however, he was called to the military service again in September, 1941, perhaps for preparation of the Pacific War by the military authorities at that time. He was deploring the irony of fate that he should be sent to the war front against his will notwithstanding the fact that he was placed on the retired list at his youthful age. Since then until October, 1943, he crossed the Pacific area back and forth several times as Commander of the transport s/s "Shohei Maru" under the menace of American submarines. As hazardous was the voyage for she could not go alone without any convoy as inferior was his health for such streneous duty. However, in the latter part of December, 1943, he was suddenly appointed as Commander of the Garrison on Truck. Thereupon he refused to accept that post over and over again pleading the Naval authority about the incompetency for the task in consideration of his health, age and capability in particular. But the Department of Navy did not listen to him and grudgingly he left for Truck.

As it was expected, immediately after his arrival at Truck he injured his health suffering from stomach trouble and could not fulfil his duty. Within not more than two months, he was discharged his post as Commander of the Garrison on Truck on February 19th, 1944 and was called back to Japan as an attache to Yokosuka Naval Station on February 21st.

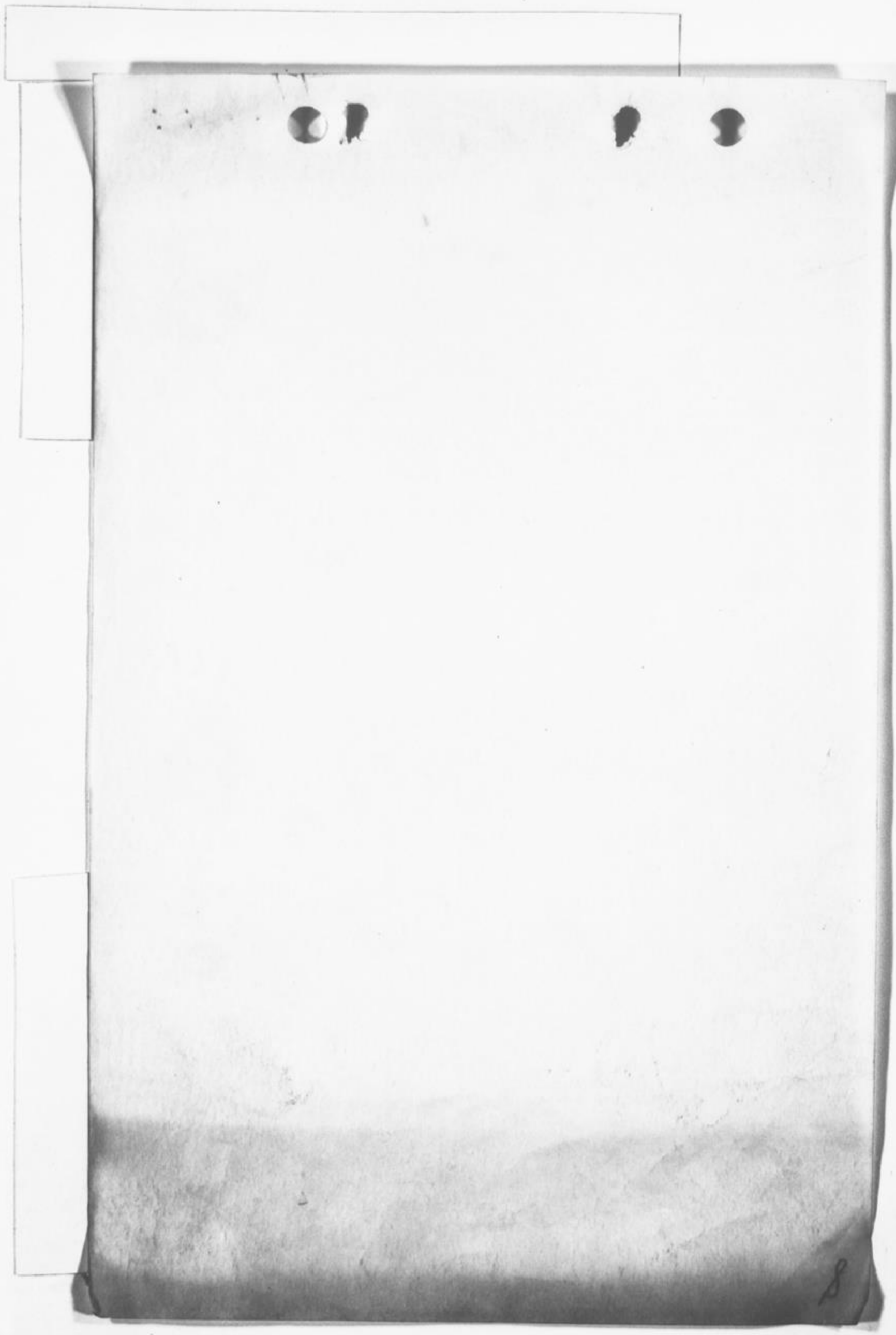
1083

After he had recuperated in Atami for about a month upon his return to Japan, he settled at his house in Nagoya in April, 1944 and for several months took care of his health at home. Then he worked at the Naval Office at Nagoya and in March, 1945 he retired from the Navy.

Since then his house in Nagoya was destroyed by the air-bombing and was compelled to evacuate to the rural district of Mie Prefecture where he enjoyed farming. In seeing him on the farm with full satisfaction and devotion, we felt that we had discovered our real father in the right place for the first time. After the termination of war, he was rejoiced heartily at the dawn of peaceful Japan and was devoting himself to increase the production of foodstuffs on his farm.

------ THE END ------

1084



1085

THE PACIFIC COMMAND
and United States Pacific Fleet
Headquarters of the Commander in Chief

Cincpacflt File
A17-25

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

Serial 20

- 3 JAN 1947

In reviewing the record of proceedings, it is noted on page one, "an interpreter read the precept in Japanese." No interpreters are shown to have been present and it is not until four entries later on this same page that interpreters are first introduced and sworn. No objection to this irregularity was made, and it is not considered that the rights of any of the defendants were prejudiced thereby.

Subject to the foregoing, the proceedings, findings of guilty, sentences, and the action of the convening authority thereon, in the foregoing case of Captain Masaharu TANAKA, IJN, Lieutenant Commander Tomeroku DANZAKI, IJN, and Lieutenant, junior grade, Yoshiharu YOSHINUMA, IJN, are approved.

Prior to the execution of the death sentence adjudged in the case of Captain Masaharu TANAKA, IJN, the record is, in conformity with section D-14, Naval Courts and Boards, respectfully referred to the Secretary of the Navy.

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

To: Judge Advocate General.
Re: Record of proceedings of Military Commission - case of Captain Masaharu TANAKA, IJN, et al.

Copies to:
ComMARIANAS
War Crimes Officer (GUAM)
IscomGUAM

1086

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

A17-10/FF12/
13-JDM-gmr

21 DEC 1946

Serial: 19962

The military commission, composed of Army, Navy and Marine Corps officers, in the foregoing case, was convened 15 October 1946, by the Commander Marianas Area pursuant to his inherent authority as a Military Commander and the specific authorization of the Commander in Chief United States Pacific Fleet (CinCPac conf. serial 0558 of 8 March 1946) and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas. The commission was specifically authorized to take up the present case and other cases the trial of which had not been commenced which had been ordered tried before the Military Commissions convened by precepts dated August 2, 1946, and August 24, 1946. The order for trial (charges and specifications) was issued 26 August 1946 and served on the accused on 25 October 1946. The trial was held under the authority of Naval Courts and Boards, except that the commission was authorized by the precept to relax the rules of Naval Courts to meet the necessities of the trial and to use the rules of evidence and procedure promulgated by the Supreme Commander for the Allied Powers in his Regulations Governing the Trials of Accused War Criminals, dated 5 December 1945, as necessary to obtain justice.

The proceedings in the foregoing case of Captain Masaharu Tanaka, IJN, Lieutenant Commander Tomeroku Danzaki, IJN, and Lieutenant, junior grade, Yoshiharu Yoshinuma, IJN, are approved. The findings of guilty on Charges I and III and the specifications thereunder and the sentences are approved.

Captain TANAKA, Masaharu, IJN, will be retained in confinement at the Island Command Stockade, Guam, pending instructions from higher authority. Lieutenant Commander DANZAKI, Tomeroku, IJN, and Lieutenant, junior grade, YOSHINUMA, Yoshiharu, IJN, will be transferred to Japan via the first available United States ship, to serve their respective terms of confinement.

C. A. Pownall

C. A. POWNALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

To: Commander in Chief United States Pacific Fleet and Pacific Ocean Areas.
Re: Record of Proceedings of Military Commission - case of
Captain Masaharu TANAKA, IJN, et al.

Copy to:
Island Commander, Guam.

1087

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

19 DEC 1946

Serial No

MEMORANDUM FOR: Commander in Chief United States Pacific Fleet and
Pacific Ocean Areas.
Commander Marianas.

Subject: Review of the Record of Trial by a Military Commission of
Captain Masaharu Tanaka, IJN,
Lieutenant Commander Tomeroku Danzaki, IJN,
Lieutenant (jg), Yoshiharu Yoshimuma, IJN.

Reference: (a) CinCPac/Poa Rest. dis. 170150 Dec. 1945.

Enclosures: (A) Record of subject case (original and three copies, one for CinCPac/Poa and one copy for SecNav for delivery to United Nations War Crimes Commission, and one copy for Commander Marianas.)
(B) Proposed action to be taken by CinCPac/Poa on subject case.
(C) Proposed action to be taken by ComMarianas on subject case.
(D) Military Commission Order No. 35.

1. In accordance with reference (a) and verbal instructions of Commander Marianas this brief, which contains my comments and recommendations is submitted.

2. OFFENSES:

a. Charge I: MURDER

Specification:

"In that TANAKA, Masaharu, then a captain, IJN, DANZAKI, Tomeroku, then a lieutenant, IJN, YOSHINUMA, Yoshiharu, then an ensign, IJN, all attached to the 41st Naval Guard Unit, and other persons unknown, all attached to the military installations of the Imperial Japanese armed forces at Dublon, Truk Atoll, did, each and together, on or about 17 February 1944, on Dublon, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, wilfully, maliciously, feloniously, with premeditation and malice aforethought, without justifiable cause, and without proper trial or other due process, assault, strike, and kill, with dangerous weapons, to wit, swords and a loaded firearm, further description to the relator unknown, seven (7) American prisoners of war, names to the relator unknown, then and there held captive by the armed forces of Japan, this in violation of the laws and customs of war and the moral standards of civilized society."

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SERIAL:

19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al. (Continued).

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Charge II: ASSAULT WITH INTENT TO COMMIT MURDER

Specification:

"In that DANZAKI, Tomeroku, then a lieutenant, IJN, YOSHINUMA, Yoshiharu, then an ensign, IJN, both attached to the 41st Naval Guard Unit, and other persons unknown, all attached to the military installations of the Imperial Japanese Armed Forces, Dublon Island, Truk Atoll, and while so serving at the said military installations of the Imperial Japanese Armed Forces at Dublon Island, Truk Atoll, did, each and together, on or about 17 February 1944, on Dublon Island, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, wilfully, maliciously, felomiously, without justifiable cause, and without proper trial or other due process, assault, strike, and stab with a dangerous weapon, to wit a sword, one (1) American prisoner of war, name to the relator unknown, then and there held captive by the Armed Forces of Japan, and did therein and thereby, then and there, attempt to kill the said American prisoner of war, this in violation of the laws and customs of war and the moral standards of civilized society."

Charge III: NEGLECT OF DUTY IN VIOLATION OF THE LAWS AND CUSTOMS OF WAR

Specification 1:

"In that TANAKA, Masaharu, then a captain, IJN, Commanding Officer of the 41st Naval Guard Unit, attached to the military installations of the Imperial Japanese armed forces, Dublon Island, Truk Atoll, and while so serving at said military installations of the Imperial Japanese armed forces, Dublon Island, Truk Atoll, did, on or about 17 February 1944, on Dublon Island, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, unlawfully, disregard, neglect and fail to discharge his duty as Commanding Officer of the said 41st Naval Guard Unit, to properly protect seven (7) American prisoners of war, held captive, by the armed forces of Japan on said island, as it was his duty to do, in that he did neglect and fail to take steps to prevent, and to prevent the unlawful killing by members of his command and other persons unknown, then under his control, by assaulting, striking, and stabbing with swords, and shooting with a loaded firearm, further description to the relator unknown, on or about said date, on the sea wall, at the Headquarters of the said 41st Naval Guard Unit, of said seven (7) American prisoners of war, names to the relator unknown, then and there held captive by the Armed Forces

1089

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

19 DEC 1946

SERIAL:

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

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of Japan, at the Headquarters of the said 41st Naval Guard Unit, and he, the said TANAKA, through said neglect and failure, did suffer the said American prisoners of war to be unlawfully killed at the time and place aforesaid in violation of the laws and customs of war."

Specification 2:

"In that TANAKA, Masaharu, then a captain, IJN, Commanding Officer of the 41st Naval Guard Unit, attached to the military installations of the Imperial Japanese armed forces, Dublon Island, Truk Atoll, and while so serving at the said military installations of the said Imperial Japanese armed forces, Dublon Island, Truk Atoll, did, on or about 17 February 1944, on Dublon Island, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, unlawfully disregard, neglect and fail to discharge his duty as Commanding Officer of the said 41st Naval Guard Unit, to control and restrain members of his command, namely, DANZAKI, Tomeroku, then a lieutenant, IJN, ISHII, Yujiro (Seiso), then a lieutenant, IJN, YOSHINUMA, Yoshiharu, then an ensign, IJN, and other persons unknown, then subject to his control, as it was his duty to do, in that he permitted and allowed the aforesaid persons, and persons unknown, to unlawfully kill by assaulting, striking, stabbing with swords and shooting with a loaded firearm, further description to the relator unknown, on or about said date, on the sea wall at the Headquarters of the said 41st Naval Guard Unit, seven (7) American prisoners of war, names to the relator unknown, then and there held captive by the armed forces of Japan at the Headquarters of the said 41st Naval Guard Unit, and he, the said TANAKA, through said neglect and failure did suffer the said American prisoners of war to be unlawfully killed at the time and place aforesaid in violation of the laws and customs of war."

b. Pleas: To Charge I.

Tanaka	Not Guilty	(R.p. 3)
Dansaki	Not Guilty	(R.p. 3)
Yoshimuma	Not Guilty	(R.p. 3)

To Specification.

Tanaka	Not Guilty	(R.p. 3)
Dansaki	Not Guilty	(R.p. 3)
Yoshimuma	Not Guilty	(R.p. 3)

To Charge II.

Dansaki	Not Guilty	(R.p. 3)
Yoshimuma	Not Guilty	(R.p. 3)

1090

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SERIAL:

19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

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To Specification.
Danzaki Not Guilty (R.p. 3)
Yoshimuma Not Guilty (R.p. 3)

To Charge III.
Tanaka Not Guilty (R.p. 3)

To Specification 1.
Tanaka Not Guilty (R.p. 3)

To Specification 2.
Tanaka Not Guilty (R.p. 3)

c. Findings: On Charge I.
Tanaka Guilty (R.p. 101)
Danzaki Guilty (R.p. 102)
Yoshimuma Guilty (R.p. 102)

On Specification.
Tanaka Proved (R.p. 101)
Danzaki Proved (R.p. 102)
Yoshimuma Proved (R.p. 102)

On Charge II.
Danzaki Not Guilty (R.p. 102)
Yoshimuma Not Guilty (R.p. 102)

On Specification.
Danzaki Not Proved (R.p. 102)
Yoshimuma Not Proved (R.p. 102)

On Charge III.
Tanaka Guilty (R.p. 102)

On Specification 1.
Tanaka Proved (R.p. 102)

On Specification 2.
Tanaka Proved (R.p. 102)

1091

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SERIAL:

19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

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d. Sentence:

Tanaka	Death by Hanging	(R.p. 106)
Densaki	Life Imprisonment	(R.p. 106)
Yoshimuma	Life Imprisonment	(R.p. 106)

e. Maximum Sentence: Death.

f. Convening Authority: Rear Admiral C. A. Pownall, U. S. Navy, The Commander Marianas Area.

g. Place of Trial: The auditorium, Headquarters, Commander Marianas, Guam, Marianas Islands. (R.p. 1)

h. Date of Trial: Arraignment, 5 Nov. 1946; Trial, 5 Nov. to 14 Nov. 1946; Sentenced 14 Nov. 1946. (R.p. 1,2,15, 42,64,80,99,101)

3. FORMAL MATTERS:

a. Authority for the Commission to act:

Commission was convened 15 October 1946 by the Commander Marianas Area pursuant to authority inherent in a Military Commander and as authorized by the Commander in Chief, United States Pacific Fleet (CinCPac conf. serial 0558 of March 8, 1946) and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas. The trial was held under authority of Naval Courts and Boards, except that the commission was permitted to relax the rules of Naval Courts to meet the necessities of the trial and to use the rules of evidence and procedure promulgated by the Supreme Commander for the Allied Powers in his Regulations Governing the Trials of Accused War Criminals, dated 5 December 1945, as necessary to obtain justice.

b. All members of the commission were present throughout the trial. (R.p. 1,3,10,15,23,26,36,42,50,54,57,64,69,77,80,84,89,94,99, 101,104).

c. All members of the commission, judge advocates, reporters, interpreters, and witnesses were sworn. (R.p. 1,5,24,54,60,73,80,94,102).

d. The charges and specifications were shown to have been served on the accused on 25 October 1946. (R.p. 1)

1092

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

19 DEC 1946

SERIAL:

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

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e. Accused were represented by counsel of their own choice. (R.p. 1).

f. There was no objection to any member of the commission. (R.p. 1).

g. The commission found the charges and specifications in due form and technically correct. (R.p. 2).

h. Accused were properly arraigned. (R.p. 2,3).

4. MOTIONS AND PLEAS:

a. The accused made a plea to the jurisdiction on the grounds that the accused were not subject to the commissions jurisdiction for violation of the Hague Convention of 1907 or the Geneva Prisoner of War Convention of 1929. The plea was properly denied. (R.p. 2).

b. There were no motions or pleas in bar.

c. Accused all pleaded "Not Guilty". (R.p. 3).

5. EVIDENCE: Briefly summarized, the competent evidence is to the effect that:

a. For the Prosecution:

(1) Accused, Captain Tanaka, IJN, was commanding officer of the 41st Naval Guard Unit (R.p. 8,25,61,65,74,80) at Dublon, Truk Atoll (R.p. 8,25) which was attached to the 4th Base Force, (R.p. 60,61,80) and through them to the 4th Fleet (R.p. 61,80) during the period from 27 December 1943 to 20 February 1944. (R.p. 65,80).

As to Charge I and the specification thereunder, on February 17, 1944, after an air raid on Truk, seven (7) prisoners of war were executed on the seawall at Dublon (R.p. 6,27, Exh.6(1). The accused, Tanaka, through his Executive Officer Lt. Ishii ordered Lt. Dansaki to carry out the execution (R.p. 82,89, Exh.4(1) which order was carried out. Tanaka was present at the execution (R.p. 7,8,32,33). No known trial of any sort was given the prisoners before execution (R.p. 10,74,92), nor had they done anything that justified their execution (R.p. 74,87). The commanding officer of the 4th Naval Base and his senior staff officer knew nothing of the execution (R.p. 60,73).

1093

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SERIAL:

19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

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As to Charge III and the specifications thereunder, the 41st Naval Guard Unit was charged with the custody of all prisoners of war on Truk (R.p. 61,62,85). The accused Tanaka was the commanding officer of the 41st Naval Guard Unit from 27 December 1943 until 20 February 1944 (R.p. 65,74,80). The prisoners were actually placed in the custody of the 41st Naval Guard Unit (R.p. 81). Relying entirely upon a verbal report from his executive officer, Lt. Ishii, (R.p. 89) that the Commanding Officer of the "headquarters" had ordered the prisoners disposed of, (R.p. 82), he agreed that Danzaki carry out the execution (R.p. 82). He made no attempt to confirm or verify Lt. Ishii's report. (R.p. 89). The initial idea of executing the prisoners came from Tanaka's subordinates of the 41st Guard Unit. (R.p. 88). He did not even know the number of prisoners who had been executed (R.p. 91) or any other details (R.p. 91).

He did nothing to restrain the members of his command from taking part in the execution, although he was present, and the execution took place 50 to 60 meters from his headquarters (R.p. 7,8,24,32,33,90,91).

(2) Accused, Lt. Commander Danzaki, IJN, was attached to the 41st Naval Guard Unit (R.p. 10,25,74) in charge of all transportation (R.p. 10,25,26) on 17 February 1944, on Dublon Island, Truk Atoll (R.p. 10, 16,74) on which date seven white men, all Americans (R.p. 10), blindfolded (R.p. 6), and with their hands tied behind their backs (R.p. 6), were beheaded there on the sea wall (R.p. 6,27). Danzaki, then a Lieutenant (R.p. 21,32) was with them (R.p. 6,27) and marched them up to sea wall (R.p. 6, 27), beheading the last of these seven white men with a sword (R.p. 10), and stabbing him in the back (R.p. 28) with his sword when he did not immediately die (R.p. 27) thereafter kicking the victim causing the body to fall from the sea wall (R.p. 28) still screaming. His victim (R.p. 20) cried and screamed "mama" and "papa" (R.p. 20) for approximately an hour (R.p. 8,28), until he was shot (R.p. 9,30,31). In December 1945 Danzaki said not to mention the executions (R.p. 9,10,34). The executions were without trial (R.p. 10,61,74) and without justification (R.p. 74).

(3) Accused, Lieutenant (junior grade), Yoshimuma, IJN, arrived on Truk 30 July 1943 (R.p. 94) and left 11 July 1944 (R.p. 94), attached to 41st Naval Guard Unit (R.p. 10,25) as repair officer (R.p. 94) directly under Lieutenant Ishii, officer for Internal Affairs (R.p. 95) who was under Tanaka, the commanding officer of the unit (R.p. 95). He was present with Danzaki (R.p. 27) on 17 February 1944, (R.p. 27), on Dublon Island, Truk Atoll, (R.p. 10,16,25,74), when seven white men, Americans (R.p. 10), blindfolded (R.p. 6), and with their hands tied behind their backs (R.p. 6), were beheaded there on the sea wall (R.p. 6,27). Yoshimuma,

1094

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

SERIAL:

19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

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then an Ensign (R.p. 23,32), was with them (R.p. 6,27), at the head of the column (R.p. 38), with sword drawn and wearing a pistol (R.p. 38), and marched them up to the sea wall (R.p. 6,27), using a long sword to do the beheading (R.p. 10,30). Yoshimuma beheaded six of them (R.p. 27,30,50,51), one by one and pushed them over the sea wall with his foot (R.p. 30). He gave the orders to the prisoners and started the beheading after seating them on the sea wall, (R.p. 38). Dansaki said not to mention the executions (R.p. 21).

b. For the Defense.

(1) As to Charge I and the specification thereunder, accused, Captain Tanaka presented no evidence except to show that he received what he believed to be orders from higher authority, the 4th Base Force Command via Ensign Ishii whose integrity he did not question (R.p. 82), and relayed the order through Ishii to have Danzaki carry out the orders (R.p. 82) of the 4th Base Headquarters to execute the prisoners (R.p. 89) and later reported to the senior staff officer, Commander Higuchi, that the same had been carried out (R.p. 83), Higuchi replying "Is that so?" (R.p. 83). Tanaka's defense was that he obeyed and carried out what he believed to be the orders of higher authority (R.p. 83). On his own responsibility he would never have done what he did (R.p. 88).

(2) Accused, Lieutenant Commander Danzaki presented no evidence in his own behalf but argued that he was not responsible for his acts, having merely carried out the orders of his superior officers.

(3) Accused, Lieutenant (j.g.) Yoshimuma presented no evidence except to show that he was ill on the date alleged and did not recollect anything that took place during this interval of his illness. He offered no testimony, medical or otherwise as to the nature of his ailment except to testify in his own behalf that he remembered nothing that took place on February 17, 1944. He denied that he had ever seen an American prisoner or any prisoners of war (R.p. 95,96) and never executed one (R.p. 95,96), although had been ordered by Lieutenant Ishii to do so but did not execute the order (R.p. 95). Accused testified that he was very surprised at suddenly receiving such orders (R.p. 97) and did not know there were any prisoners to be executed (R.p. 97).

1095

A17-10/
13-JDM-cn

Serial: 19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

- -

6. DISCUSSION:

a. As to jurisdiction:

The authority of the Commander Marianas Area to appoint a commission to try the accused was delegated by the Commander in Chief, United States Pacific Fleet in his letter serial 0558 dated 8 March 1946. Further, it appears that such authority is inherent in his command. (Appendix D, N.C. & B.; Yamashita vs Styer, U.S. Sup. Ct. decision of 4 Feb. 1946).

The accused made objection to the jurisdiction. It is well established that a military commission convened by order of the Commander in Chief, U.S. Pacific Fleet and Pacific Ocean Areas has jurisdiction to try war crimes. The objection to the jurisdiction was properly overruled. (R.p. 2) (Yamashita vs. Styer, U.S. Sup. Ct. decision of 4 Feb. 1946).

b. As to procedure:

(1) Selection of the commission followed approved practice of including Army, Navy and Marine Corps Officers as members of the commission. (See my memorandum dated 20 February 1946 in the case of Colonel Oishi et al). Prosecution and defense personnel were duly appointed by the convening authority.

(2) All accused were advised of and accorded all rights prescribed.

(3) The death sentence of accused was returned upon concurrence of two thirds or more of the members of the commission.

(4) The sentences are legal.

c. As to evidence:

(1) Referring to Charge I and the specification thereunder, there is sufficient competent evidence to support the commission's findings of guilty relative to all the defendants. The evidence clearly established that on February 17, 1944 seven American prisoners of war were executed on Dublon, Truk Atoll, without trial as required by International Law and the Geneva Convention of July 27, 1929. That the defendant Tanaka ordered these executions, and that the defendants Danzaki and Yoshinuma carried them out is clearly established by the evidence.

1096

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

A17-10/
13-JDM-ala

Serial:

19 DEC 1946

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

---

(2) Referring to Charge II and the specification thereunder, there was no evidence that the defendants Danzaki and Yoshimuma merely attempted to kill one American prisoner of war. Between them they actually killed seven American prisoners of war as stated in paragraphs a (2) and (3) and b (2) and (3) above. Charge II and the specification thereunder was resorted to in covering possible exigencies of proof. The proving of Charge I and the specification thereunder eliminated Charge II and its specification.

(3) Referring to Charge III. The material facts tending to prove and disprove the allegations of neglect of duty set out in specifications 1 and 2 of the above Charge are stated in paragraphs a (1) and b (1) above.

(4) The defense of the accused Tanaka was that he merely carried out orders to execute the American prisoners of war in obedience to the orders of his superior in command. Such a defense is untenable. He did not communicate with his superior officer, the Base Force Commander, concerning the suddenly ordered executions, but obediently carried them out although he was doubtful about their authenticity and scolded the junior officer Yoshimuma who allegedly relayed the executions order to the accused Tanaka. The American prisoners who were executed were squarely under the protection of the Geneva Prisoner of War Convention and should have been treated in accordance with the provisions of that convention which strictly prohibit any such killings as occurred in the instant case. The command of a superior neither excuses or justifies an unlawful act.

d. As to the sentences:

Defendant Tanaka was sentenced to death by hanging. The defendants Danzaki and Yoshimuma were sentenced to life imprisonment. The sentences are legal, uniform and justified by the evidence before the commission.

e. Generally:

During the trial the accused and also the judge advocate made objections to the admissibility of evidence. 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.

1097

A17-10/
13-JDM-rhj

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

19 DEC 1946

SERIAL:

Subject: Review of the Record of Trial by a Military Commission of Captain Masaharu Tanaka, IJN et al (Continued).

- -

7. OPINION: It is the opinion of the undersigned that:

a. The military commission was legally constituted;

b. The commission had jurisdiction of the persons and the offenses;

c. The evidence supports the findings of guilty on Charges I and III and the specification thereunder; The lack of evidence warrants the findings of not guilty as to the accused Danzaki and Yoshinuma on Charge II and the specification thereunder.

d. The record discloses no errors injuriously affecting the substantial rights of the accused; and

e. The sentences are legal.

8. RECOMMENDATIONS: It is accordingly recommended (1) that the proceedings, findings of guilty and sentences be approved by the convening authority, Commander Marianas, and the reviewing authority, Commander in Chief, United States Pacific Fleet, and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas; (2) that the convening authority and the reviewing authority in effect concur in the acquittal of Danzaki and Yoshinuma on Charge II and; (3) that the record, in conformity with section D-14, Naval Courts and Boards, be transmitted to the Judge Advocate General of the Navy for revision and record.

9. ACTIONS: Actions designed to carry the above recommendations into effect should they meet with your approval are submitted herewith as enclosures (B) and (C).

JOHN D. MURPHY,
Captain, U. S. Navy,
War Crimes Director,
Pacific Ocean Areas.

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial: ROUGH

The proceedings, findings of guilty and sentences, and the action of the convening authority thereon, in the foregoing case of Captain Masaharu Tanaka, IJN, Lieutenant Commander Tomeroku Danzaki, IJN, and Lieutenant, junior grade, Yoshiharu Yoshimura, IJN, are approved.

Prior to the execution of the death sentence adjudged in the case of Captain Masaharu Tanaka, Imperial Japanese Navy, the record is in conformity with section D - 14 Naval Court and Boards, respectfully referred to the Secretary of the Navy.

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

To: Navy Department (Office JAG).
Re: Record of proceedings of Military Commission - case of
Captain Masaharu TANAKA, IJN, et al.

Copies to :
ComMarianas
War Crimes Director POA (Guam).
IsCom Guam.

ENCLOSURE (B)

1099

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

ROUGH

Serial:

The military commission, composed of Army, Navy and Marine Corps officers, in the foregoing case, was convened 15 October 1946, by the Commander Marianas Area pursuant to his inherent authority as a Military Commander and the specific authorization of the Commander in Chief United States Pacific Fleet (CinCPac conf. serial 0558 of 8 March 1946) and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas. The commission was specifically authorized to take up the present case and other cases the trial of which had not been commenced which had been ordered tried before the Military Commissions convened by precepts dated August 2, 1946, and August 24, 1946. The order for trial (charges and specifications) was issued 26 August 1946 and served on the accused on 25 October 1946. The trial was held under the authority of Naval Courts and Boards, except that the commission was authorized by the precept to relax the rules of Naval Courts to meet the necessities of the trial and to use the rules of evidence and procedure promulgated by the Supreme Commander for the Allied Powers in his Regulations Governing the Trials of Accused War Criminals, dated 5 December 1945, as necessary to obtain justice.

The proceedings in the foregoing case of Captain Masaharu Tanaka, IJN, Lieutenant Commander Tomeroku Danzaki, IJN, and Lieutenant, junior grade, Yoshiharu Yoshimuma, IJN, are approved. The findings of guilty on Charges I and III and the specifications thereunder and the sentences are approved.

Captain TANAKA, Masaharu, IJN, will be retained in confinement at the Island Command Stockade, Guam, pending instructions from higher authority. Lieutenant Commander DANZAKI, Tomeroku, IJN, and Lieutenant, junior grade, YOSHINUMA, Yoshiharu, IJN, will be transferred to Japan via the first available United States ship, to serve their respective terms of confinement.

C. A. POWNALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

To: Commander in Chief United States Pacific Fleet and Pacific Ocean Areas.
Re: Record of Proceedings of Military Commission - case of
Captain Masaharu TANAKA, IJN, et al.

Copy to:
Island Commander, Guam.

ENCLOSURE (C)

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial: 19960 21 December 1946

MILITARY COMMISSION ORDER NO. 35

(In re TANAKA, Masaharu, Captain, IJN, et al)

1. On 5 November 1946, TANAKA, Masaharu, Captain, Imperial Japanese Navy, DANZAKI, Tomoroku, Lieutenant Commander, Imperial Japanese Navy, YOSHINUMA, Yoshiharu, Lieutenant (junior grade), Imperial Japanese Navy were tried and convicted by a United States Military Commission convened by order of the Commander Marianas area, dated 15 October 1946 at the Headquarters, Commander Marianas, Guam, Marianas Islands, on the below listed charges and specifications.

CHARGE I - MURDER (One specification)

Nature	Place	Date of Offense	Name of Accused
Kill 7 POW's	Dublon, Truk Atoll	2-17-44	TANAKA - DANZAKI - YOSHINUMA

CHARGE II - ASSAULT WITH INTENT TO COMMIT MURDER

Stab with a sword 1 POW	Dublon, Truk Atoll	2-17-44	DANZAKI - YOSHINUMA

CHARGE III - NEGLECT OF DUTY IN VIOLATION OF THE LAWS AND CUSTOMS OF WAR
(Two specifications)

Spec.	Nature	Place	Date of Offense	Name of Accused
1.	Failed to prevent Unlawful killing 7 POW's	Dublon, Truk Atoll	2-17-44	TANAKA
2.	Failed to control persons under his command.	Dublon, Truk Atoll	2-17-44	TANAKA

FINDINGS: On Charges and Specifications with reference to each accused:

"As to the accused, TANAKA, Masaharu:
The specification of the first charge proved.
And that the accused, TANAKA, Masaharu, captain, Imperial Japanese Navy, is of the first charge guilty.

"The first specification of the third charge proved.
The second specification of the third charge proved.
And that the accused, TANAKA, Masaharu, captain, Imperial Japanese Navy, is of the third charge guilty.

"As to the accused, DANZAKI, Tomoroku:
The specification of the first charge proved.
And that the accused, DANZAKI, Tomoroku, lieutenant commander, Imperial Japanese Navy, is of the first charge guilty.

"The specification of the second charge not proved.
And that the accused, DANZAKI, Tomoroku, lieutenant commander, Imperial Japanese Navy, is of the second charge not guilty; and the commission does therefore acquit the said, DANZAKI, Tomoroku, lieutenant commander, Imperial Japanese Navy, of the second charge.

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial: 19960 21 December 1946

MILITARY COMMISSION ORDER NO. 35.

(In re TANAKA, Masaharu, Captain, IJN, et al)

FINDINGS: (continued) "As to the accused, YOSHINUMA, Yoshiharu:
The specification of the first charge proved.
And that the accused, YOSHINUMA, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, is of the first charge guilty.

"The specification of the second charge not proved.
And that the accused, YOSHINUMA, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, is of the second charge not guilty; and the commission does therefore acquit the said, YOSHINUMA, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, of the second charge."

SENTENCES: The commission on 14 November 1946 sentences the accused as follows:

"The commission, therefore, sentences him, Tanaka, Masaharu, captain, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

"The commission, therefore, sentences him, Danzaki, Tomoroku, lieutenant commander, Imperial Japanese Navy, to be confined for the term of his natural life."

"The commission, therefore, sentences him, Yoshinuma, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, to be confined for the term of his natural life."

2. On 21 December 1946, the Convening Authority (Commander Marianas) approved the proceedings, findings and sentences and designated the place of confinement as follows:

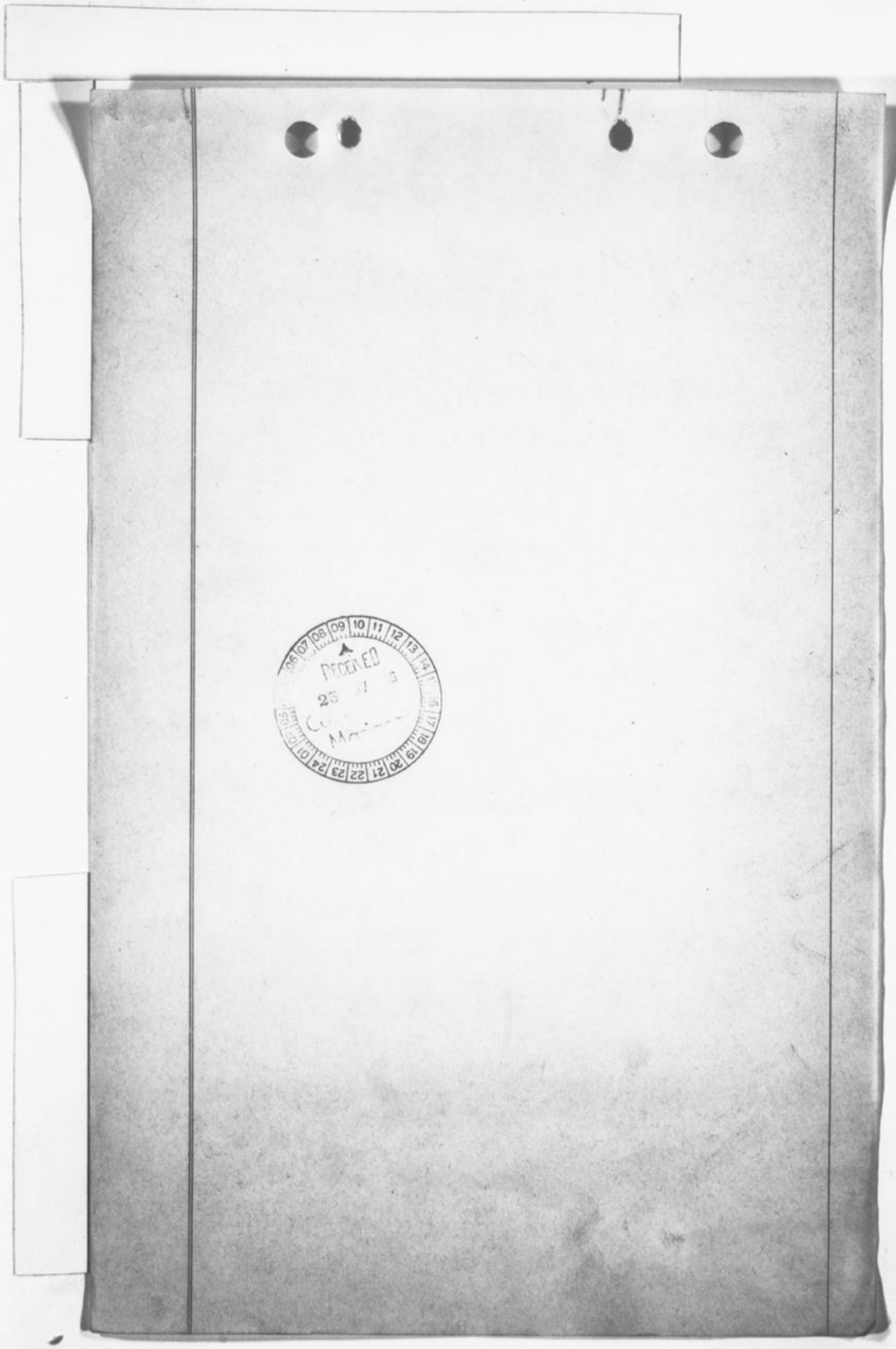
"*** the proceedings in the foregoing case of Captain Masaharu Tanaka, IJN, Lieutenant Commander Tomoroku Danzaki, IJN, and Lieutenant, junior grade, Yoshiharu Yoshinuma, IJN, are approved. The findings of guilty on Charges I and III and the specifications thereunder and the sentences are approved.

Captain TANAKA, Masaharu, IJN, will be retained in confinement at the Island Command Stockade, Guam, pending instructions from higher authority. Lieutenant Commander DANZAKI, Tomoroku, IJN, and Lieutenant, junior grade, YOSHINUMA, Yoshiharu, IJN, will be transferred to Japan via the first available United States ship, to serve their respective terms of confinement."

C. A. POWNALL
Rear Admiral, U. S. Navy
The Commander Marianas Area

AUTHENTICATED:
J. N. MYERS,
Flag Secretary.

Copy to:
JUDGE ADVOCATE GENERAL (3)
SUPREME COMMANDER ALLIED POWERS (3)
COMMANDING GENERAL, 8th ARMY, (JAPAN) (3)
NATIONAL WAR CRIMES OFFICE, WAR DEPT. WASHINGTON, D. C. (3).



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Captain Tanaka, Masaharu, Imperial Japanese Navy,

Lieutenant Commander Danzaki, Tomeroku, Imperial Japanese Navy,

and

Lieutenant (junior grade) Yoshinuma, Yoshiharu, Imperial Japanese Navy.

Trial by Military Commission

At Guam

Marianas Islands.

November 5, 1946.

INDEX

	Page
Organization of Commission	1
Introduction of counsel	1
Members, Judge Advocates, Reporters sworn	1, 3
Arraignment	3, 4
Pleas	2
Adjournments	14, 41, 63, 79, 98, 100, 107
Prosecution rests	79
Defense rests	98
Findings	101
Sentence	106

TESTIMONY

Name of witness	Direct and Redirect	Cross and Recross	Commission
Prosecution			
Tipetip Somour, civilian.	5, 23	10, 24	
Kapirel Nedleck, civilian.	24	36	
Maurice E. Currie, Lieutenant Commander, United States Naval Reserve.	54, 57	56	59
Wakabayashi, Seisaku, Vice Admiral, Imperial Japanese Navy.	60	61	
Higuchi, Nobuo, Commander, Imperial Japanese Navy.	73	74	
Defense			
Tanaka, Masaharu, Captain, Imperial Japanese Navy.	80, 92	84	
Yoshinuma, Yoshiharu, Lieutenant (jg), Imperial Japanese Navy.	94	96	
Toda, Masanao, civilian.	102		

1104

EXHIBITS

Exhibit	Character of	Admitted in evidence
1	Statement of Lieutenant Ishii, Yujiro, IJN.	56
2	English translation of Exhibit 1.	56
3	Statement of Captain Tanaka, Masaharu, IJN.	59
4	English translation of Exhibit 3.	59
5	Statement of Lieutenant Commander Danzaki, Tomeroku, IJN.	59
6	English translation of Exhibit 5.	59
7a through 8e	Five documents in Japanese in behalf of the accused, Tanaka, Masaharu, Captain, IJN.	103
8a through 8f	English translation of Exhibits 7a through 7e.	103
9a through 10x	Fifty documents in Japanese in behalf of the accused, Lieutenant Commander, Danzaki, Tomeroku, IJN.	103
11a through 12y	English translation of Exhibits 9a through 10x, and one document the original of which is in English.	103
13a and 13b	Two documents in Japanese in behalf of the accused, Lieutenant (jg), Yoshinuma, Yoshiharu, IJN.	104
14a and 14b	English translation of Exhibits 13a and 13b.	104

ADD TO THE
COST PRICE:

..... 100%

..... 66 2/3%

..... 50 4/5%

..... 42 6/7%

..... 33 1/3%

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Precupi

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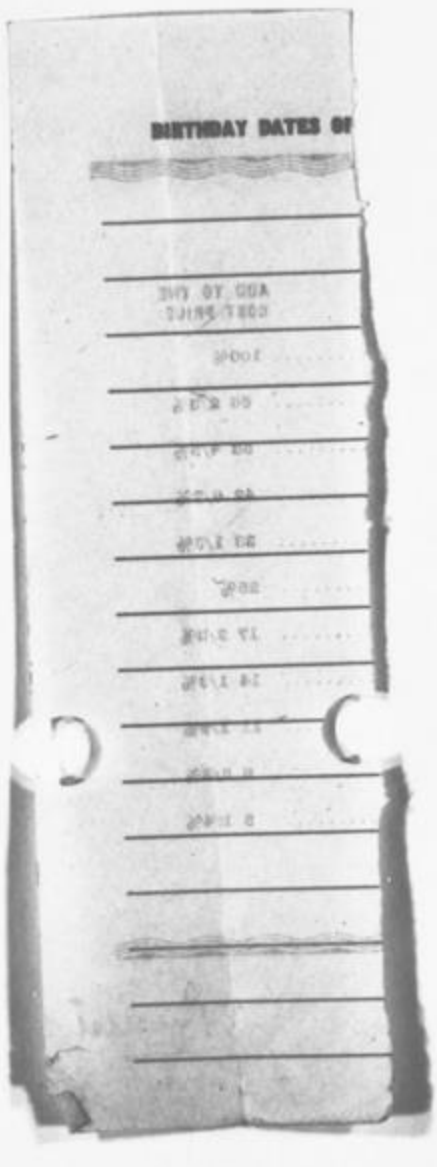
BIRTHDAY DATES OF

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

A16-2/FF12
13-JDM-gmr

Serial: 12841 15 October 1946.

From: The Commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON, U. S. Navy.

Subject: Precept for a Military Commission.

1. Pursuant to the authority vested in me by virtue of my office as Commander Marianas Area and Deputy Military Governor Marianas Area and further by the specific authority vested in me by the Commander-in-Chief, U. S. Pacific Fleet (CinCPac conf. serial 0558, of March 8, 1946), and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas, and by the Judge Advocate General of the Navy (JAG despatch 3117302, August 1946), a Military Commission is hereby ordered to convene at the Headquarters, Commander Marianas on Guam, Marianas Islands, at 10 o'clock a.m. on Monday, October 21, 1946, or as soon thereafter as practicable, at the call of the President, for the trial of such persons as may be legally brought before it.

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

Rear Admiral Arthur G. ROBINSON, U. S. Navy, President,
Colonel Adolph L. RAMON, Army of the United States,
Colonel Douglass G. PAMPLIN, Army of the United States,
Lieutenant Colonel Adolph ZUBER, U. S. Marine Corps,
Commander Ramon J. WALLENBORN, Dental Corps, U. S. Navy,
Commander Vance O. SMITH, U. S. Naval Reserve, and of

Lieutenant Daniel FLYNN, U. S. Naval Reserve, Lieutenant Edward L. FIELD, U. S. Naval Reserve, and Lieutenant Fredric T. SUSS, U. S. Naval Reserve, as judge advocates, any of whom is authorized to act as such.

Commander Martin E. CARLSON, U. S. Naval Reserve, Lieutenant Commander Donald H. DICKEY, U. S. Naval Reserve, and Masanao TODA, and Kenro ITO, of Tokyo, Japan, both furnished by the Japanese Government, all of whom are lawyers, are available and authorized to act as defense counsel. This authorization does not preclude as defense counsel others who are available and are desired by accused.

Observers designated by the French and Swiss Governments are authorized to attend trials wherein an accused is alleged to have unlawfully killed French and Swiss nationals. A duly accredited native of the Marshall Islands is also authorized to participate as an observer in any trial of an accused charged with offenses against Marshallese.

3. The Military Commission shall be competent to try all offenses within the jurisdiction of exceptional military courts. It shall have jurisdiction over all persons in the custody of the convening authority at the time of the trial

CERTIFIED TO BE A TRUE COPY
Edward L. Field
Lieutenant USNR.

UNITED STATES PACIFIC FLEET
COMLANDER MARIANAS

A16-2/FF12/
13-JDM-gmr

Serial: 12841

15 October 1946.

Subject: Precept for a Military Commission. (continued).

charged with war crimes committed against United States nationals, persons referred to in the despatch of the Judge Advocate General of the Navy cited in paragraph one (1) above, and any white person whose nationality has not prior to ordering of the trial been established to the satisfaction of the convening authority. Nothing herein limits the jurisdiction of the Military Commission as to persons and offenses which may be otherwise properly established.

4. The Military Commission upon conviction of an accused is empowered to impose upon such accused any lawful punishment including the death sentence, imprisonment for life or for any less term, fine or such other punishment as the commission shall determine to be proper.

5. The proceedings of the Military Commission will be governed by the provisions of Naval Courts and Boards, except that the commission is permitted to relax the rules for naval courts to meet the necessities for any particular trial, and may use such rules of evidence and procedure, issued and promulgated by the Supreme Commander for the Allied Powers, (Letter General Headquarters, Supreme Commander for the Allied Powers, APO 500, 5 December 1945 A.G. 000.5 (5 Dec. 45) LS, Subject: "Regulations Governing the Trials of Accused War Criminals,") as are necessary to obtain justice. The commission may adopt such other rules and forms, not inconsistent herewith, as it considers appropriate.

6. This commission is hereby authorized and directed to take up the cases of Lieutenant TOMITA, Ryoji, IJN, Captain TANAKA, Masaharu, IJN, et al, and Sergeant TAKANO, Masayoshi, IJA, ordered tried by charges and specifications dated respectively 26 August 1946, 26 August 1946, and 16 September 1946, and such other cases as may be now pending before the Military Commissions of which Rear Admiral Arthur G. Robinson, U. S. Navy, is President, convened respectively by my precepts of August 2, 1946 and August 24, 1946, except such cases the trial of which may have been commenced.

7. 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 commission. Specif orders for such relief are necessary.

8. Power of adjournment is granted the commission, and adjourned sessions may be held at such times and at such places as the commission may determi

[It contains adequate authority to try anyone brought before it]

C. A. POWNALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

CERTIFIED TO BE A TRUE COPY
Edward L. Finn
Lt. U.S.N.R.

"A" - 2 -

1109

Copies to:
Members of the Commission.
Judge Advocates.
Judge Advocate General, U. S. Navy.

Certified to be a true copy:

Fredric T. Suss,
Lieutenant, USNR,
Judge Advocate

CERTIFIED TO BE A TRUE COPY
Edward L. Finch
Lt. USNR.

1110

田中大佐 檀崎大佐 訴因第参の事件に於ける
告訴各項目にみする管轄の弁論

（東京弁護人 伊藤憲郎
一九四六年六月四日）

被告人は告訴第一乃至五項目に於ける文明の名の道義上
田中正二郎

許すべからざる、非法律的且つ管轄を要するものである。
（除外例あることに注意）

1. 戦争犯罪は戦争法規により禁せられた行為である
A war crime

本件告訴第一乃至五項目が戦争法規により禁せられた行
為であることは勿論である。即ち戦争犯罪は法律によ
って禁せられた行為、假令それが如何なる地点の犯罪で
あっても同様である。從て法律之外の宣戦又は道徳によって罰せられることはない。而して法律自
体又は宣戦又は道徳を改善としてみる場合は例
外である。文明の名の道義上 praseology

は注釈なおお term "(2)" ～よい。 Scap rule には

"Violation of the Laws and Customs of war" という言葉は用いてあるが何処にも

それが今の違反ということは用いてあらず、

このphraseologyを附加したことは実ら

本件各許容一般技項目に対する法的で

ある軍事活動を制限的に付て具体的に

指示を与えるための、カムフラージと見做される

ふしは既に他の機会に於て論じら

れたごとく1907年海牙陸戦法及1929年の

捕虜條約は本件における戦争犯罪人の裁

決（sources）たることに大いに疑問が

あるからである。

2. 私は本今4日より Guam へ来ている

The international military tribunal trying major Japanese war criminals に対し被告人弁護人をしている。それで私は既に Charter of The international Military Tribunal for the Far East 及び Indictment を読んでおり、その Charter 並に被告人並に弁護人に関する条規の外に平和に対する罪通例の戦争犯罪人道に対する罪

"B" (3)

と規定にある。(ヲ)その中にこれみ等の違法の
ふ文字はない。而して indictment には
上記の凡ての者を以下列挙の諸点に於て性
行中に凡て定義せられたる平和に対する罪
戦争犯罪人道に対する罪並以上の罪の共通
計画又は共同謀議の罪ありとして告訴状
と書いてある。ここにも又同じ等の違法と
ふ phraseology はない。此の文明社会に通用する
~~それは~~ その際は 国際法にもよくて 然して、アニう 裁判
の裁判でもよいとはれてある。
本件告訴第一番目項目中の文字のみ等の違法と
ふ言葉は 余剰 surplusage である。
須く削除 reject すべきものである。
O O O O

1114

The accused Tanaka, Masaharu, Danzaki, Tomeroku and Yoshimura, Yoshiharu, object to the inclusion of the term "moral standards of civilized society" in the Specification of Charge I, as improper, non-legal and more surplus.

A war crime is an act prohibited by the laws of war. It goes without saying that his act in the Specification of the Charge I is prohibited by the laws of war. However, since the war crime is an act prohibited by the laws of war, even a heinous act can not be punished without the law. It can never be punished by religion or morals other than law. Of course, it is the exception if the law itself contains religion or morals. A phraseology, "moral standards of civilized society" is not a legal term. There is a term "violation of laws and customs of war" in SCAP Rules, but I can not find "moral standards of civilized society" anywhere in the rules. The reason for the addition of this phraseology seems to me a camouflage to conceal that they can not prove concretely the laws and customs of war for the Specification of Charge I.

It is very doubtful, as was often discussed before, that the 1907 Hague Convention and the 1929 Geneva Convention can be considered as the sources of the laws and customs of war applicable in this case.

I was the assistant lawyer for the defendant General KOISO at the International Military Tribunal trying major Japanese war criminals from May of this year till I came to Guam. Therefore, I think I read well the "Charter of the International Military Tribunal for the Far East" and "Indictment". In article 5 of the charter, jurisdiction over persons and offenses, there are definitions of "Crimes Against Peace", "Conventional War-Crimes" and "Crimes against Humanity", but no "Moral standards of civilized society". In the indictment it is also stated that "Therefore, the above named nations by their undersigned representations duly appointed to represent their respective governments in the investigation of the charges against and the prosecution of the Major War Criminals, pursuant to the Potsdam Declaration of 20 July, 1945, and the Instrument of Surrender of 2 September 1945, and the Charter of the Tribunal, hereby accuse as guilty, in the respects hereinafter set forth, of Crimes against Peace, War Crimes, and Crimes against humanity, and of Common Plans or Conspiracies to commit those crimes, all as defined in the Charter of the Tribunal, and accordingly name as defendants in this case and as indicted on the counts hereinafter set out in which their names respectively appear, all the above-named individuals". But, nowhere can I find the phraseology of "Moral standards of civilized society". There is no such phraseology in the international law or at the International Tribunals at Neurnberg, Manila or Yokohama.

Therefore, the term "moral standards of civilized society" in the Specification of the Charge I is obviously surplus and should be rejected.

KENRO ITO

I certify the above to be a true and complete translation of the [illegible] objection to the charges and specifications in Japanese to the best of my ability.

EUGENE E. KERRICK, Jr., Lieutenant, USNR

"C 1"

1115

異議の申立

被告田中政治、檀崎留六、吉沼義治等ハ本件ニ対シ異議ヲ有スルガ故ニ辯護士團ハ茲ニ謹ンテ抗議ヲ呈出致シマス、

本件ハ戰爭法規並ニ慣習及文明社會ノ道義ニ違反シタル犯罪ヲ罰スルコトヲ問擬セラレテ居リマス凡ソ犯罪ヲ罰シマスルニハ其ノ根據トナルヘキ法規ノ存在ガ必要デアリマス、戰爭犯罪マタ戰爭法規ノ存在ヲ必要トスルコトハ多クノ學者ノ說ヲ俟タズシテ明カデアリマス、

檢事ハ其ノ國際法規ノ基礎ヲ千九百七年十月海牙條約第三條第三項及七千九百二十九年ノ俘虜條約第二條ニ求メテ居ルガ樣デアリマスガ、海牙條約ハイタリヤ、プルガリヤ兩國ガ批准シテ居ラナイノデアリマス從ッテ本條約ハ締約國全部ノ批准ガ無ケレバ效力ヲ發生セズトノ規定ニ從ヒ未ダ效力ヲ發生シテ居リマセン、從ッテ此レガ效力ヲ發生シテ居ラナイノデアリマス、只問題ハ昭和十七年一月ニ日本政府ガ東郷外務大臣ヲシテ東京發瑞西公使宛通牒及ビ同年二月三十日東京發瑞西公使宛通牒ヲ以テ「アルゼンチン」公使ノ交渉ニ依リ「アルゼンチン」ガ參戰セル一方的意思表示ニ過キナイモノデアリテ此レヲ以テ國際性ヲ發生シタリトハ云ヘナイノデアリマス、

従ッテ之ヲ適用スヘキ国際法規ナキモノト謂ハナケレハナラナイノデアリマス

次ニ文明社會ノ道義ニ違反セリトシテ問擬セラレテ居リマスカ斯ノ如キハ今タ嘗テ其ノ例ヲ東西ニ見サルモノデアリマス、

東京裁判ニ於テモ横濱裁判ニ於キマシテモ何処ニモ文明社會ノ道義違反ヲ以テ訴追サレテハ居ラナイノデアリマス　況ヤスキップルールニモ規定ナキ此ノ文明社會ノ道義違反ヲ以テ罰スルノハ不可ナリト断ズルモノデアリマス

文明社會ノ道義トハ果シテ如何ナル定義ヲ持ッモノデアリマセラカ、亦文明社會ノ道義ハ一定ノ標準ヲ何処ニ求ムヘキモノデアリマセウカ

本裁判ハドノ法規ニ準據シテ文明社會ノ道義ニ違反セリトシテ罰スルノデアリマセウカ

辯護人團ハ本裁判ヲ進行スルニ当リ此ノ点ヲ明ニシ且ツ何レノ法規ニモ違背セス又曖昧ニシテ不確実ナルモノデアリマスト雖モ文明社會ノ道義違反ナル新ラシキ犯罪ヲ以テ被告ヲ処罰セラレンコトヲ要求致シマス

文明社會ノ道義ナルモノハ古今東西其ノ揆ヲ

ニシテ居ラナイノデアリマス
日本ニ於キマシテハ昔ハ「親ノ仇討」
タノデアリマス、否、寧ロ親ノ仇ヲ討タサルモノハ
子トシテ非常ニ不道義トセラレタノデアリマス
然ルニ近代日本ハ「親ノ仇討」ハ不道義デアリマ
ス、「親ノ仇討チ」カ道義ナリト稱讃セラレ
タ時代ニ於テモ「妻ノ仇討チ」ナルモノハ道義ナ
リトシテ許サレナカツタノデアリマス
又切腹ハ武士道トシテ稱揚セラレ、介錯ト云
ツテ其ノ切腹スル人ノ首ヲ斬ツテヤルコトハ武士
ニ対スル情トシテ認メラレタノデアリマス
西洋ノ道義必スシモ東洋ノ道義ニ非ス東洋ノ
道義必スシモ西洋ノ道義ニ非ス各國各民
族其ノ時代其ノ場所ニヨツテ各々其ノ趣
キヲ異ニスルノデアリマス
然ルニ本裁判カ此ノ種々雑多ニシテ欧米亜細
亜各々其ノ意味ノ異ニシタル、ソシテ其ノ足ノ
標準ヲ以テ漠然タル「文明社會ノ道義」ナルコ
トヲ以テ他國人ヲ罰スルコトハ勝者カ敗者ヲ
裁クノ感ヲ免レヌノデアリマセウカ、
辯護人「國ハ以上ニ対スル辯護人ノ申立テヲ以テ
オヤリマス」

The accused TANAKA, Masaharu, DANZAKI, Tomeroku and YOSHINUMA, Yoshiharu, object to the charges and specifications of this case.

The prosecution insists that their acts violate the laws and customs of war and the moral standards of civilized society.

Generally speaking, the punishment of the crime ought to be based upon laws and regulations. It goes without saying that war crimes are to be punished by the laws of war. The prosecution seems to base the laws of war upon the Hague Convention, article 23c of 18 Oct. 1907 and the Geneva Convention article 2 of 27 July 1929. But, since the former was not ratified by Italy and Bulgaria, it has no efficacy as international law according to its provision that it has no efficacy without the ratification of all nations which took part in the convention. The Geneva Convention was also not ratified by Japan and does not have any effect. The only things which come into question as to these conventions are the communications of TOGO Foreign Minister of the Japanese Government to the Swiss Minister in Tokyo on 29 January 1942 and to the Argentine Minister in Tokyo on 30 January 1942. However these are nothing but one sided expressions of intention of the Japanese to these countries and can not be said to have international efficacy. Therefore, we can not find any laws of war applicable to this case.

The next thing in question is the "violation of the moral standards of civilized society" which is an unprecedented term. Such a term is not used at the Tribunals in Tokyo, Yokohama, Nuernberg or anywhere else, nor is there such a term in the SCAP Rules. Therefore, we maintain it is unjust to punish on account of such a violation.

What is the definition of the "moral standards of civilized society"? What is the "standard"? What law does this commission apply in punishing the violation? We defense lawyers ask you to clear up this point in order to perform this trial. It is not based upon the laws of war and is also obscure and uncertain.

The moral standards of civilized society is varied, both by place and time. In the old Japan, vendetta was deemed to be moral. It was even said that a man who failed to take revenge for his parents was immoral. Even at the time when the vendetta for the parents was deemed moral, that for wife was thought immoral and never allowed. "Harakiri" was also deemed to be the most respectable deed of "Bushido", and "Kaishaku" or the beheading of a man who had performed "Harakiri", was admitted to be the thing a generous "Samurai" should do.

Morals of Western countries are quite different from those of the Orient. Each country or each nation has its own morals which differ according to the place and time.

However, in this trial these accused are to be punished on account of the violation of the moral standards of civilized society which varies much according to the nations or circumstances and is a vague and uncertain term. Doesn't it make people feel that it is a triumph to punish the conquered?

We maintain that the violations of the moral standards of civilized society ought to be omitted from the charges.

MASANAO TODA

I certify the above to be a true and complete translation of the original objection to the charges and specifications in Japanese to the best of my ability.

EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

1120

Argument in Objection to the Charges and Specifications in the case of Captain Tanaka, Masaharu, Lieutenant Commander Danzaki, and Lieutenant (j.g.) Yoshinuma, Yoshiharu, delivered by Commander Martin E. Carlson, U.S.N.R., Defense Counsel, before the Military Commission convened by The Commander Marianas Area at Guam.

The accused object to trial in joinder. According to Section 17, Naval Courts and Boards, "Accused persons will not be joined in the same charge and specification unless for concert of action in an offense".

Court Martial Order 77-1919, page 18, holds th t, "The mere fact that several persons happen to have committed the same offense at the same time does not authorize their being joined in the charge".

Court Martial Order 1-1929, pp 31-32, holds, "It is well settled that the necessary elements for a joint charge and joint trial are th t the offense must be one that is not in its nature several, and th t there must exist a conspiracy or concert of action".

In Digest of Opinions of the Judge Advocate General of the Army (1901) p. 201, it is stated: "Properly to warrant the joining of several persons in the same charge and bringing them to trial together thereon, the offense must be such as required for its commission a combination of action and must have been committed by the accused in concert or in pursuance of a common intent".

Winthrop's Military Law, p. 208, states: "But whenever the offense is, in its nature, several, there can be no joinder".

In footnote 3 on page 203, Winthrop quotes 2 Hawkins, C. 25, s. 89, as follows: "Where the offense indicted doth not wholly arise from the joint act of all the defendants, but from such act joined with some personal and particular defect or omission of each defendant, without which it would be no offense, ...the indictment must charge them severally and not jointly".

Not only are these three accused joined in trial but they are joined with "other persons unknown". This joinder with other persons unknown is prejudicial to the substantial rights of the accused because he cannot properly prepare his defense not knowing who is included in the term "other persons unknown". The accused would like to call to stand in his behalf certain witnesses but such persons are reluctant to testify in behalf of the accused because of the rule which the prosecution has established in previous war crimes cases as to any person who was present at the scent of a war crime. We object to Section 332 of the U. S. Criminal Code being enlarged simply on the mere statement of the prosecution.

The term "and other persons unknown" is further objectionable because the prosecution bring in such other persons as witnesses and they testify against the accused, and then at the next trial these witnesses are the accused, being charged as co-conspirators having "each and together" committed the crime. Thus the prosecution are very cleverly evading the rule laid down in Wharton's Criminal Evidence, Volume 2, Section 714, which states: "narratives of past events after the conspiracy is fully executed are to measures taken in execution or furtherance of the common purpose inadmissible against conspirators."

1121

State vs Huckins states: "One conspirator does not ...by its execution under his authority, authorize his co-conspirators to make confessions or admissions of guilt for him or to narrate past events."

"When the common enterprise is at an end, whether by accomplishment or abandonment, no one of the conspirators is permitted by any subsequent action or declaration of his own to affect the others." Wharton's Criminal Evidence, Vol. 2, par. 714, citing Logan vs United States, 144 US 263; Brown vs United States, 150 US 93; Sorensen vs State (CCA 8th) 143 F 820: Gall vs United States, 166 F 419; Hauger vs United States 173 F 54; Morrow vs United States, 11 F (2d) 256; Lane vs United States 3[illegible] F (2d) 413; Collenger vs United States 50 F (2d) 345; Minner vs United States 57F(2d) 306: Dandagarda vs United States (CCA 10th) 64F(2d) 182; United States vs White 5 Crunch CCA 38 Fed Cas No 16-675.

Charge I is labeled Murder but the specification does not follow the sample specification in Section 53, Naval Courts and Boards. The statement that the accused did kill is a conclusion of the pleader instead of a statement of fact and does not make a good specification.

We also object to the specification of the first charge in that it alleges "seven American prisoners of war, names to the relator unknown". This we hold to be insufficient as a description in charging the accused with murder. We ask that the specification be amended to include a better description of the persons alleged to have been murdered.

This specification is further objectionable inasmuch as it alleges the murder of seven persons. Seven offenses are alleged in the one specification. This is not good pleading and we object to seven offenses being pleaded in one specification.

Then although the charge is labeled "Murder" it is alleged that this is in violation of the laws and customs of war. In order to enable the accused to make any defense he may have, it is requested that the laws and customs of war which are held to have been violated be set out in the specification, otherwise he is not fully informed of the charge.

The first specification of the first charge also alleges that this was in violation of the moral standards of civilized society. The inclusion of this phrase does not properly define any code or concept under which the act alleged is greater than a violation of the laws and customs of war. It is obvious surplusage.

The phraseology has no precedent either in martial law or in criminal law. No specification in Naval Courts and Boards makes any mention of a violation of "the moral standards of civilized society". No indictment in the criminal courts of the United States includes this phraseology. It is definitely non-legal and should have no place in the charges and specifications brought before this Navy-convened commission.

Further, the phrase is without means of proper definition. The prosecution have pleaded this evidence before and whenever challenged to prove what is meant

1122

by moral standards of civilized society they make the same vague general statement in effect that everyone knows what is meant by moral standards of civilized society. We again ask the prosecution to prove what they mean by moral standards of civilized society. Unless the prosecution define the phrase, this commission must as philosophers, sociologists and historians determine what is legally meant by the phrase and that the crime alleged is not only a violation of the ordinary concept of law but that all these previous concepts of rights and wrongs that have crystallized into stated laws are not sufficient bases on which to charge wrong doing.

The accused request that they be fully informed as to the meaning of this phrase "moral standards of civilized society" in order that they may properly prepare their defense. We have searched in vain through the law books but fail to find any definition or legal basis for this phrase. The separate words are found in any dictionary but we do not find an explanation of the criterion by which this Commission is now called upon to judge.

"Civilized society" is a very nebulous expression. What society based on what civilization is meant to be included in the definition of the term? The accused are people of an oriental nation with a civilization of at least 2600 years but have been in contact with western civilization only 90 years. Do you plan to judge them on their own civilization, an Oriental civilization, or do you plan to judge them by the standards of our civilization which they have never fully accepted? If you are to judge them by occidental concepts where do you find the legal basis for such a rule?

Although it is certainly not binding on this military commission, it should be persuasive that in on other war crimes tribunal has it been found necessary or desirable to include that offenses were in violation of the "moral standards of civilized society". No other war crimes are being tried and judged on such unlawful grounds.

The accused object to the trial in joinder in Charge II for the same reasons as stated heretofore.

We also object to the inclusion of the words "and other persons unknown" being joined with two accused named, Lt. Danzaki and Ensign Yoshinuma. The same reasons as given in the first charge apply in this instance.

In Charge II we object to the insufficiency in the description of the victim, he being only described as "one (1) American prisoner of war, name to the relator unknown". This is not enough of a description to fully apprise the accused so that he can properly prepare any defense and is prejudicial to the rights of the accused.

For the same reasons advanced regarding the offense being in violation of the laws and customs of war and the moral standards of civilized society, we object in this instance to the specification of Charge II. The accused is not fully informed what the laws and customs of war and the moral standards of civilized society are that he has violated as an officer of the Imperial Japanese Navy, during the time when a state of war existed between the United States and Japan.

1123

The accused, Captain Tanaka, objects to specification 1 and 2 of Charge III for the same reasons as stated above regarding the laws and customs of war and th vague and indefinite description of the victims.

Martin E Carlson

MARTIN E. CARLSON
COMMANDER, U. S. NAVAL RESERVE.

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

A16-2/FF12/
13-JDM-gmr

26 August 1946.

Serial: 10717

From: The Commander Marianas Area.
To : Lieutenant Daniel FLYNN, USNR, and/or
Lieutenant Edward L. FIELD, USNR, and/or
Lieutenant Fredric T. SUSS, USNR, and/or
your successors in office as Judge Advocates,
Military Commission, Commander Marianas.

Subject: Charges and Specifications - in the case of:

Captain TANAKA, Masaharu, Imperial Japanese Navy.
Lieutenant Commander DANZAKI, Tomeroku, Imperial Japanese Navy.
Lieutenant, junior grade, YOSHINUMA, Yoshiharu, Imperial Japanese Navy.

1. The above named persons will be tried before the Military Commission of which you are Judge Advocate upon the following charges and specifications. You will notify the President of the commission accordingly, inform the accused of the date set for trial, and summon all witnesses, both for the prosecution and for the defense.

CHARGE I

MURDER

SPECIFICATION

In that TANAKA, Masaharu, then a captain, IJN, DANZAKI, Tomeroku, then a lieutenant, IJN, YOSHINUMA, Yoshiharu, then an ensign, IJN, all attached to the 41st Naval Guard Unit, and other persons unknown, all attached to the military installations of the Imperial Japanese armed forces, Dublon, Truk Atoll, and while so serving at the said military installations of the Imperial Japanese armed forces at Dublon, Truk Atoll, did, each and together, on or about 17 February 1944, on Dublon, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, wilfully, maliciously, feloniously, with premeditation and malice aforethought, without justifiable cause, and without proper trial or other due process, assault, strike, and kill, with dangerous weapons, to wit, swords and a loaded firearm, further description to the relator unknown, seven (7) American prisoners of war, names to the relator unknown, then and there held captive by the armed forces of Japan, this in violation of the laws and customs of war and the moral standards of civilized society.

"G (1)"

1125

CHARGE II

ASSAULT WITH INTENT TO COMMIT MURDER

SPECIFICATION

In that DANZAKI, Tomeroku, then a lieutenant, IJN, YOSHINUMA, Yoshiharu, then an ensign, IJN, both attached to the 41st Naval Guard Unit, and other persons unknown, all attached to the military installations of the Imperial Japanese Armed Forces, Dublon Island, Truk Atoll, and while so serving at the said military installations of the Imperial Japanese Armed Forces at Dublon Island, Truk Atoll, did, each and together, on or about 17 February 1944, on Dublon Island, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, wilfully, maliciously, feloniously, without justifiable cause, and without proper trial or other due process, assault, strike, and stab with a dangerous weapon, to wit a sword, one (1) American prisoner of war, name to the relator unknown, then and there held captive by the Armed Forces of Japan, and did therein and thereby, then and there, attempt to kill the said American prisoner of war, this in violation of the laws and customs of war and the moral standards of civilized society.

1126

CHARGE III

NEGLECT OF DUTY IN VIOLATION OF THE LAWS AND CUSTOMS OF WAR

SPECIFICATION 1

In that TANAKA, Masaharu, then a captain, IJN, Commanding Officer of the 41st Naval Guard Unit, attached to the military installations of the Imperial Japanese armed forces, Dublon Island, Truk Atoll, and while so serving at said military installations of the Imperial Japanese armed forces, Dublon Island, Truk Atoll, did, on or about 17 February 1944, on Dublon Island, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, unlawfully disregard, neglect and fail to discharge his duty as Commanding Officer of the said 41st Naval Guard Unit, to properly protect seven (7) American prisoners of war, held captive, by the armed forces of Japan on said island, as it was his duty to do, in that he did neglect and fail to take steps to prevent, and to prevent the unlawful killing by members of his command and other persons unknown, then under his control, by assaulting, striking, and stabbing with swords, and shooting with a loaded firearm, further description to the relator unknown, on or about said date, on the sea wall, at the Headquarters of the said 41st Naval Guard Unit, of said seven (7) American prisoners of war, names to the relator unknown, then and there held captive by the armed forces of Japan, at the Headquarters of the said 41st Naval Guard Unit, and he, the said TANAKA, through said neglect and failure, did suffer the said American prisoners of war to be unlawfully killed at the time and place aforesaid in violation of the laws and customs of war.

1127

CHARGE III (continued)

SPECIFICATION 2

In that TANAKA, Masaharu, then a captain, IJN, Commanding Officer of the 41st Naval Guard Unit, attached to the military installations of the Imperial Japanese armed forces, Dublon Island, Truk Atoll, and while so serving at the said military installations of the said Imperial Japanese armed forces, Dublon Island, Truk Atoll, did, on or about 17 February 1944, on Dublon Island, Truk Atoll, at a time when a state of war existed between the United States of America, its allies and dependencies, and the Japanese Empire, unlawfully disregard, neglect and fail to discharge his duty as Commanding Officer of the said 41st Naval Guard Unit, to control and restrain members of his command, namely, DANZAKI, Tomeroku, then a lieutenant, IJN, ISHII, Yujiro (Seizo), then a lieutenant, IJN, YOSHINUMA, Yoshiharu, then an ensign, IJN, and other persons unknown, then subject to his control, as it was his duty to do, in that he permitted and allowed the aforesaid persons, and persons unknown, to unlawfully kill by assaulting, striking, stabbing with swords and shooting with a loaded firearm, further description to the relator unknown, on or about said date, on the sea wall at the Headquarters of the said 41st Naval Guard Unit, seven (7) American prisoners of war, names to the relator unknown, then and there held captive by the armed forces of Japan at the Headquarters of the said 41st Naval Guard Unit, and he, the said TANAKA, through said neglect and failure, did suffer the said American prisoners of war to be unlawfully killed at the time and place aforesaid in violation of the laws and customs of war.

C. A. Pownall

C. A. POWNALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

1128

Received true and correct copies, both in English and Japanese, of this charge and specifications on the 15 day of [illegible], 1946.

Masaharu Tanaka
Tanaka, Masaharu
DANZAKI. TOMEROKU
Danzaki, Tomeroku
~~Ishii, Yujiro~~
Yoshinuma Yoshiharu
Yoshinuma, Yoshiharu

CLF

The above acknowledgement read to the accused in Japanese before he signed.

Eugene L. Kemmel Jr
Interpreter

昭和二十一年八月二十六日

発 マリヤナ方面司令官

宛 「マリヤナ」方面司令部軍法委員附法務官
米國海軍大尉 「ダニエル、フリン」

同 海軍大尉 「エドワード、ルキス、ライールド」

同 海軍大尉 「アドリック、トマス、サッス」

或ハ法務官ドノテ、貴官等ノ後任者

記

大日本帝國海軍大佐 田中政治 同海軍少佐
檀崎留六 同海軍少尉 吉沼義治ノ件ニ
関スル告訴並ニ罪状項目

前記ノ者ハ貴官ガ法務官タル軍法委員ニ於テ
後記ノ告訴並ニ罪状項目ニ付キ裁判セラルヘシ
貴官ハ裁判長ニ之ヲ通告ン 仮告ニ裁判ノ日時
ヲ通告ン原告並ニ被告両側ノ全證人ヲ集合
セシムベシ。

Certified as a true and correct translation
Prof. Yuzuru Takeuchi
Japanese Section, OCCPAC

第一告訴

殺害

罪狀項目

第四艦隊軍醫備隊ニ配屬サレアリシ
大日本帝國海軍大佐（當時）田中政治
同　海軍大尉（當時）檀崎留六
同　海軍少尉（當時）吉沼義治

右ノ者及ビ其ノ他不詳者ハ皆「トラック」環礁
夏島所在ノ大日本帝國軍隊ニ配屬中、又
同「トラック」環礁夏島所在ノ大日本帝國隊ニ
勤務中、夫々共同シテ、同「トラック」環礁ノ
夏島ニテ、「アメリカ」合衆國及ビソノ同盟國、
屬領ト大日本帝國トガ戰爭狀態ニ在リタ
ル昭和十九年二月十七日頃竟志的ニ、要
心的ニ違法的ニ、企圖ト要竟ヲ以テ正
當ナ理由モ無ク適當ナ公判其他然ル
ベキ手續キモセズ、前記大日本帝國軍
隊ニ抑留シアリシ米俘虜ヲ七名一告發
者ニハ姓名不明）ヲ危險ナ武器即チ
[illegible] ~ [illegible]

日本刀ト雖モ之ヲ装填シタル銃砲（其他詳細不明ノモノヲ以テ襲ヒ殺害セル事ニ係リ右ノ行爲ハ戦争法規慣習及文明社會ノ道義ニ違反シタルヤ明ナリ。

Cultured to be a true and complete translation
of the first page of
my affidavit to the best
of my knowledge
and belief.
H. UMEZU
3

第二告訴

殺意アル襲撃

罪狀項目

第四十二海軍警備隊ニ配屬
大日本帝國海軍大尉（當時）　檀崎留久
同　　海軍少尉（當時）　吉沼義治

右ノ者及ビ其他不詳者ハ「トラック」環狀珊瑚島ノ夏島ニテ、「アメリカ」所在ノ大日本帝國軍隊ニ配屬中、又同「トラック」環狀珊瑚島ノ夏島ノ大日本帝國軍隊ニ勤務中、夫々共同シテ、同「トラック」環狀珊瑚島ノ夏島ニテ、「アメリカ」合衆國及ビ其同盟諸國、屬領ト大日本帝國トガ戰爭狀態ニ在リタル昭和十九年二月十七日頃意思的ニ惡的ニ、違法的ニ正當ナル理由モナク久、適當ナル公判其他然ルベキ手續キモセズ、前記大日本帝國軍隊ノ手ニ抑留シアリシ米俘虜一名ノ姓名不明ヲ危險ナ武器即チ日本刀ヲ以テ襲ヒ、突キ刺シ、當時同所デ夫ニ仍テ同米俘虜ヲ殺サントシタル事ニ仍リ右ノ行爲ハ戰爭法規並ニ慣習及ビ文明社會ノ道義ニ違反シタルモノナリ。

第三告訴

職務怠慢ニヨル戦争法規並ニ慣習ノ違反

罪狀項目其一

第四十二海軍警備隊司令大日本帝国海軍大佐（當時）田中政治ハ、「トラック」環狀珊瑚島ノ夏島ノ大日本帝國軍隊ニ配屬中、又「トラック」環狀珊瑚島ノ夏島ノ同大日本帝國軍隊ニ司令トシテ勤務中、「アメリカ合衆國及其同盟諸國ト屬領ト、大日本帝國トガ戰爭狀態ニ在リタル昭和十九年二月十七日頃、第四十二海軍警備隊司令トシテノ職務ヲ違法的ニ無視シ、遂行セズ、同島ニ抑留中ノ米俘虜ヲシテベキアッタニモ拘ハラズ保護セズ、當時其ノ指揮下ニアリタル人員及ビ其ノ統率下ニアリタル不詳者ガ上記ノ月日ニ上記ノ第四十二海軍警備隊ノ本部ノ棧橋ニテ日本刀ニテ龍ヲ突キ刺シ、又彈丸ヲ裝塡セル銃砲（他ノ詳細不明）デ射ツ事ニ依リ上記ノ第四十二警備隊ノ本部ニ抑留中ノ米俘虜七名（姓名不詳）ヲ違法的ニ殺害スル事ヲ防止スル手段ヲ構ゼズ又防止セズ、上記ノ如ク殺害セシメ、上記ノ米俘虜ノ無視ト怠慢ニ依リ、上記ノ月日ト場所ニテ違法的ニ殺害セタリ、右行爲ハ戰爭法規並ニ慣習ニ違反シタルナリ。

Entitled to an Impartial Trial by an Unbiased Judge and Jury (5)

第三告訴（續き）

罪狀項目 其二

第四十一海軍警備隊司令大佐（當時）田中政治ハ、「トラック」環狀珊瑚島及「ヤルート」環狀珊瑚島ノ何レニ於テモ大日本帝國軍隊ニ勤務中、「アメリカ」合衆國及ビ其ノ同盟諸國ノ屬領ト大日本帝國トガ戰爭狀態ニ在リタル昭和十九年二月十七日頃、第四十一海軍警備隊司令トシテノ職務ヲ違法的ニ無視シ、逐行セズ、ソノ部下ニアリシ者、即チ大日本帝國海軍大尉（當時）檀崎留次、同海軍大尉（當時）石井立次郎（當時）吉沼義藏、其他不詳者ヲシテ前記ノ如キ多クノ捕虜ニモ拘ハラズ抑制セズ第四十一海軍警備隊本部ニテ大日本帝國軍隊ノ手ニ拘留シアリシ米國人捕虜七名（姓名不詳）ヲ前記日日ニ前記第四十一海軍警備隊本部ノ棧橋ニテ襲ヒ、日本刀デ突キ刺シ弾丸ヲ發射シ頭部ヲ銃砲（他ノ詳細不明）デ射ツ事ニヨリ無法的ニ殺害スル事ヲ許セリト記載シ、田中ハ、斯カル職務無視ト違法ノ意圖ニ基ク上記ノ米俘虜ハ前記日日ト場所ニテ違法的ニ殺害サレタリ 右行爲ハ戰爭法規並ニ慣習ニ違反シタルナリ

Certified to be a true and complete translation to the best of my ability
Eugene [illegible]
(6)

FIRST DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Tuesday, November 5, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, members, and
Lieutenant Daniel Flynn, U. S. Naval Reserve, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocates.

Platoon Sergeant Earl J. Criego, U. S. Marine Corps, entered with the accused and reported as provost marshal.

The judge advocate introduced Vivian Kilner, civilian, as reporter.

Each of the accused requested that Commander Martin E. Carlson, U. S. Naval Reserve, Mr. Kenro Ito, and Mr. Masanao Toda act as his counsel. Commander Carlson, Mr. Ito and Mr. Toda took seats as counsel for each of the accused.

The judge advocate read the precept, copy prefixed marked exhibit "A".

An interpreter then read the precept in Japanese.

The judge advocate did not object to any member.

The accused did not object to any member.

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

The judge advocate introduced Lieutenant Eugene E. Kerrick, U. S. Naval Reserve, Lieutenant (junior grade) Frederick F. Tremayne, U. S. Naval Reserve, Mr. Sam Ueda, and Mr. Justo Aflague as interpreters and they were duly sworn.

Each of the accused stated that he had received a copy of the charges and specifications preferred against him, both in English and Japanese, on October 25, 1946.

The judge advocate asked the accused if they had any objections to make to the charges and specifications.

The accused replied in the affirmative, and read a written statement in Japanese prefixed marked "B".

1136

An interpreter read an English translation of this statement, copy prefixed marked "C".

The accused further objected and read a written statement in Japanese prefixed marked "D".

An interpreter read an English translation of this statement, copy prefixed marked "E".

The accused further objected and read a written statement in English, copy prefixed marked "F".

The judge advocate replied.

The commission was cleared.

The commission was opened. All parties to the trial entered. The commission announced that the objections of the accused were not sustained and that the commission found the charges and specifications in due form and technically correct.

Each of the accused stated that he was ready for trial.

No witnesses not otherwise connected with the trial were present.

The accused made a plea to the jurisdiction on the ground of the lack of jurisdiction of the commission to try the accused Captain Tanaka, Lieutenant Commander Danzaki, and Lieutenant (junior grade) Yoshinuma as follows:

We hold that we accused are not subject to this commission's jurisdiction because the Hague Convention No. IV of 1907, Geneva Prisoner of War Convention of July 1927, Geneva Red Cross Convention of 1929, neither provide courts nor punishments. We hold, as do most international lawyers, that these particular conventions are deemed to obligate only states (the "High Contracting Parties") are not their individual nationals. Accordingly, an injured State can take measures of recourse for violations (e.g. reprisals) only against another State and not against that State's individual subjects. As to the moral standards of civilized society, we reiterate what we have said in our objections to the specifications and charges. Until the prosecution defines legally what they mean by moral standards of civilized society and show that these individuals know and are bound by such standards, we hold this commission has no jurisdiction over us, the accused.

The judge advocate replied.

The commission announced that the plea of the accused was not sustained.

The judge advocate read the letter containing the charges and specifications, original prefixed marked "G", in English; then an interpreter read a translation of the charges and specifications in Japanese, copy prefixed marked "H".

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

1137

Q. Tanaka, Masaharu, Captain, Imperial Japanese Navy, you have heard the charges and specifications preferred against you; how say you to the specification of the first charge, guilty or not guilty?
A. Not guilty.

Q. To the first charge, guilty or not guilty?
A. Not guilty.

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

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

Q. To the third charge, guilty or not guilty?
A. Not guilty.

Q. Danzaki, Tomeroku, Lieutenant Commander, Imperial Japanese Navy, you have heard the charges and specifications preferred against you; how say you to the specification of the first charge, guilty or not guilty?
A. Not guilty.

Q. To the first charge, guilty or not guilty?
A. Not guilty.

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

Q. To the second charge, guilty or not guilty?
A. Not guilty.

Q. Yoshimuma, Yoshiharu, Lieutenant (junior grade), Imperial Japanese Navy, you have heard the charges and specifications preferred against you; how say you to the specification of the first charge, guilty or not guilty?
A. Not guilty.

Q. To the first charge, guilty or not guilty?
A. Not guilty.

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

Q. To the second charge, guilty or not guilty?
A. Not guilty.

The commission then, at 11:22 a.m., took a recess until 2:10 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

1138

The judge advocate introduced Robert Oldham, yeoman third class, U. S. Navy, as reporter.

The reporter was duly sworn.

The prosecution began.

The judge advocate made an opening statement, appended marked "I".

An interpreter read the judge advocate's statement in Japanese.

The judge advocate requested the commission to take judicial notice of the following:

That from December 8, 1941 to August 14, 1945 a state of war existed between the Imperial Government of Japan and the Government of the United States.

That Truk Atoll, Caroline Islands is part of the territory under the command of the Commander Marianas Area.

The Hague Convention of October 18, 1907 and especially Article 23(c) "It is especially forbidden to kill or wound an enemy who, having laid down his arms, or having no longer any means of defense, has surrendered at discretion". Japan ratified and signed this convention.

The Geneva Prisoners of War Convention of July 27, 1929; and especially the following three articles:

Article 2. Prisoners of war are in the power of the hostile power, but not of the individuals or corps who have captured them. They must at all times be humanely treated and protected, particularly against acts of violence, insults, and public curiosity.

Article 61. No prisoner of war may be sentenced without having opportunity to defend himself.

Article 66. If the death penalty is pronounced against a prisoner of war, a communique setting forth in detail the nature and circumstances of the offense shall be sent as soon as possible to the representative of the protecting power, for transmission to the power in whose armies the prisoner served. The sentence shall not be executed before the expiration period of at least three months after this communique.

It is further requested that judicial notice be taken of the Foreword War Department Technical Manual 27-251 in which it states 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.

The accused objected as follows:

1139

We object to the Commission taking judicial notice of the Hague Convention of 1907, particularly Article 23 (c), and the Geneva Prisoner of War Convention of 1929, Article 61, 66, and the Foreword of the War Department Manual TM 27-251 and ask that the judge advocate be required to prove these conventions and Foreword like any other fact as they are required by Sections 27 and 309 of Naval Courts and Boards. This Commission is bound by Section 309 to require that the prosecution prove these conventions and the Foreword of the War Department Manual TM 27-251, like any other fact since we are basing our defense on a plea in bar as to the jurisdiction of this Commission to try us the accused, Captain Tanaka, Lieutenant Commander Danzaki, and Lieutenant (junior grade) Yoshinuma, for a violation of a law and custom of war which is alleged to be set out in these conventions. We did make a plea to the jurisdiction of the commission; a plea that we, the accused, Captain Tanaka, Lieutenant Commander Danzaki, and Lieutenant (junior grade) Yoshinuma, are not subject to the Commission's jurisdiction for a trial of an offense in violation of articles of these conventions and the laws and customs of war, but we were overruled. Our plea was based on the ground that these conventions which neither provide courts or punishments, have no application to individuals and we ask that they be proved as is required by Section 309, Naval Courts and Boards.

The judge advocate replied.

The commission announced that the objection of the accused was not sustained.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name?
A. My name is Tipetip.

2. Q. What is your full name?
A. My full name is Tipetip Somour.

3. Q. Where were you born?
A. I was born at Truk.

4. Q. Where do you presently live?
A. I am living at Truk.

5. Q. How long have you lived at Truk?
A. Since I was a small boy.

6. Q. While living at Truk did you ever see any prisoners of war?
A. I did.

7. Q. Where did you see these prisoners of war?
A. I was working at Truk and I saw them at the Naval Guard Unit.

1140

8. Q. At the time you saw these prisoners of war where were you?
A. At the time when I saw them I was working at the Naval Guard Unit.

9. Q. What kind of work were you doing at this time?
A. I was working on a boat.

10. Q. Was anyone with you on the boat?
A. Yes.

11. Q. Who was with you at the time?
A. I was with Kap and the brother of Kap who has died already.

12. Q. How many prisoners of war did you see?
A. Seven.

13. Q. When you saw these seven prisoners of war what were they doing?
A. When I first saw them, they were marching them to the sea wall.

14. Q. Could you see the color of the skin of these seven men?
A. Yes.

15. Q. What was the color of the skin of these men?
A. They had white complexions.

16. Q. At the time you saw these men marching to the sea wall, were they blindfolded?
A. Yes, they were blindfolded.

17. Q. What was the position of their hands if you can remember?
A. They were tied behind their backs.

18. Q. After you saw them marching to the sea wall did you see anything else?
A. Yes, I saw something else.

19. Q. Then what happened?
A. They started chopping their heads off.

20. Q. Now, as you saw these men marching to the sea wall who was with them, if anyone?
A. When I saw these prisoners marching to the sea wall, I saw Danzaki and Yoshinuma with them.

(The accused Danzaki and Yoshinuma were asked to stand).

21. Q. Are these the same two men that you saw with the prisoner when you state that you saw "Danzaki and Yoshinuma with them"?
A. Yes.

22. Q. Can you tell us just what you saw take place at the sea wall?
A. While I was watching, I only saw the two of those officers chop their heads off.

23. Q. About how far away were you from the actual spot where the heads were chopped off?
A. About 60 or 70 meters.

24. Q. Besides Danzaki and Yoshinuma did you see anyone else with the prisoners?
A. Yes.

25. Q. Who else did you see?
A. One sentry.

26. Q. Did you observe that anyone else was watching this execution?
A. Yes.

27. Q. Who did you observe that was watching the execution?
A. Tanaka and someone besides Tanaka.

(The accused Tanaka was asked to stand).

28. Q. Is this the man that you say you saw watching the execution?
A. Yes.

29. Q. Where was Captain Tanaka at the time you saw him?
A. On the veranda.

30. Q. Now, this was the veranda of what?
A. Veranda of the Headquarters, called Hombu in Japanese.

31. Q. What was located at the same place, if anything?
A. I don't remember what was there but I saw people on the veranda.

32. Q. Do you know to what Guard Unit Captain Tanaka was attached at this time?
A. Yes, I understand.

33. Q. What was this Guard Unit?
A. Naval Guard Unit.

34. Q. Did this unit have a number to indicate which one it was?
A. Yes, I understand.

35. Q. Do you know the number of the Naval Guard Unit; by what number was it called?
A. 71.

36. Q. Are you familiar with the 41st Naval Guard Unit?

The accused objected to this question on the ground that it is leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes, I am.

1142

37. Q. Do you know who was the commanding officer of the 41st Naval Guard Unit at the time you saw this execution?
A. Tanaka.

38. Q. Is this Tanaka the same person you have identified in court?
A. Yes, it is the one I see.

39. Q. Do you know where the headquarters of the 41st Naval Guard Unit was at this time?
A. Yes, I do.

40. Q. Where was the headquarters of the 41st Naval Guard Unit?
A. At Dublon.

41. Q. Do you know the exact place or building on Dublon which the headquarters was located?
A. Yes, I do.

42. Q. How far was the headquarters of the 41st Naval Guard Unit from the sea wall?
A. About 50 meters.

43. Q. You have testified that you saw Captain Tanaka on the veranda; was this the veranda of the Naval Guard Unit Headquarters?
A. Yes.

44. Q. After the execution had taken place, what did you see, if anything?
A. One was screaming and hollering.

45. Q. Did you hear this man screaming and hollering?
A. Yes.

46. Q. For approximately how long did you hear screaming and hollering?
A. About one hour.

47. Q. At the end of about one hour what if anything happened?
A. After an hour I heard this man hollering, and then I heard this man shouting "father and mother".

48. Q. Then what took place, if anything?
A. After that they chased us away from the boat where we were working.

49. Q. Who chased you away from the boat where you were working?
A. The sentry in that unit chased us away.

50. Q. Did you go when he chased you away?
A. Yes, we went away from the place where we were.

51. Q. After you left where did you go?
A. I do not understand the question.

The judge advocate, with the permission of the commission, withdrew the question.

1143

52. Q. After you were told by the sentry to leave the boat which you were working on, do you know if anything else took place at the sea wall?
A. Yes.

53. Q. What do you know took place?
A. I didn't see it, but I heard a fast shot after that.

54. Q. Do you know if the bodies of these men were buried right at the sea wall?
A. Yes, I do.

55. Q. Was any use made of this area of land after that?
A. They buried the bodies of the prisoners, then they planted sweet potatoes there.

56. Q. Do you know whether this area was ever dug up again?
A. Yes, I do.

57. Q. When was this dug up if you recall?
A. During the year 1945.

58. Q. Did you see this digging taking place?
A. Yes, I did.

59. Q. What did you observe while the digging was taking place?
A. To the best of my knowledge they dug up the bones and put them in tin cans.

60. Q. Did you see the tin cans?
A. Yes, I did.

61. Q. Do you know what was done with these tin cans?
A. Yes, I saw these tin cans and they put them on a boat and took them out to sea.

62. Q. Now, when you say "they" whom do you mean?
A. I do not understand the question.

The judge advocate, with the permission of the commission, withdrew the question.

63. Q. When you say "they" took these cans out to sea, do you mean the Japanese?
A. Yes sir.

64. Q. Were you ever told by anyone not to mention the story that you just related?
A. Yes sir.

65. Q. Who told you not to mention this story?
A. Danzaki.

66. Q. Is this the Danzaki that you have identified in court today?
A. Yes.

67. Q. Now, the seven men that you saw executed, you said their complexion was white, what was the nationality of these men, if you know?

The accused objected to this question on the ground that it was a conclusion of the witness, unless his qualification is shown by the prosecution to know what is meant by the nationality of the prisoners, otherwise he is not qualified to answer what nationality these men were.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. They were Americans.

68. Q. Insofar as you know was any trial given these Americans?
A. No, I have seen no trial.

69. Q. Do you know to what Guard Unit Commander Danzaki and Lieutenant (junior grade) Yoshinuma were attached?
A. Yes, I do.

70. Q. What unit was that?
A. The 41st Naval Guard Unit.

71. Q. You have said that you saw Danzaki and Yoshinuma chop off the heads of these men, with what did you see them chop off the heads of these men?
A. They cut their heads off with swords.

The commission then, at 3:15 p.m., took a recess until 3:40 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

(Examination continued).

72. Q. Do you recall the date that you witnessed this execution?
A. In the year 1944, February 17.

Cross-examined by the accused:

73. Q. On the day of the execution what work were you doing on the boat?
A. I am a sailor on the boat.

74. Q. On that day, other than the execution of the prisoners, did anything special occur?
A. After that Danzaki told me not to mention what I had seen.

75. Q. Nothing related to the execution, but something that was exceptional?
A. Yes.

1145

76. Q. What is that?
A. They dig and take the bones out from the place where they buried them.

77. Q. Did you see any blood flow from the prisoners whom you saw executed?
A. Yes.

78. Q. Can you speak English?
A. I can not understand.

79. Q. You testified before that one of the prisoners was screaming for about an hour, after which he called for his father and mother, how did you know this?
A. I heard plainly that this man mentioned his father and mother.

80. Q. How did you know that the prisoner was an American?
A. There were no other people, only Americans I think.

81. Q. Have you ever been to America?
A. No, I have never been there.

82. Q. Have you ever known an American previously?
A. No.

83. Q. Can you speak Japanese?
A. I can not understand.

84. Q. How did you know Yoshimuma?
A. Because he and I work at the same Guard Unit where he is.

85. Q. When the prisoner was being taken to the sea wall to be executed, how many people went along with them?
A. Two.

86. Q. You have testified before that the execution took place on February 17, 1944, this is some years previous, how do you remember this date so clearly?
A. I just wanted to remember the date so I made a record of it.

87. Q. Did the witness ever know Captain Tanaka before?
A. Yes, I do.

88. Q. When was this?
A. When I was working at the Guard Unit.

89. Q. How many times did you meet him up to the time of the incident?
A. One time.

90. Q. Where was this?
A. On the veranda of the headquarters.

91. Q. When you met him this time did you speak to him?
A. No, I did not.

92. Q. When you met him what was the distance between Tanaka and the witness?
A. About 50 meters.

1146

93. Q. How did you know that it was Captain Tanaka?
A. Because I had been working at the Guard Unit and I know very well that it was Tanaka.

94. Q. When did you hear for the first time that it was Captain Tanaka?
A. I don't quite remember the date.

95. Q. From whom were you told that this was Captain Tanaka?
A. Danzaki told me.

96. Q. Why did Danzaki tell you that he was Captain Tanaka?
A. Because when I was working for Danzaki, Danzaki told me to obey the orders from the man by the name of Tanaka.

97. Q. When you were told by Danzaki that he was Captain Tanaka what was the distance between you and Captain Tanaka?
A. About 50 meters.

98. Q. Then you have only seen Captain Tanaka twice from a great distance previous to the execution?
A. Yes.

99. Q. What sort of ground was the place of execution, marshy, sandy, or rocky?
A. Soil on top and mud on the bottom.

100. Q. The vicinity around the place, was it mountainous, or was it clear, or level?
A. It was on a level place.

101. Q. Were there any trees in that neighborhood?
A. None.

102. Q. At the time of the execution where were you?
A. I was in front of our boat.

103. Q. Was the front of the boat land, or was it a pier?
A. Wharf.

104. Q. Then you were standing on the wharf?
A. Yes, I was standing on the wharf.

105. Q. How high was the wharf from the sea?
A. I couldn't tell how many, but from this to that.

(The witness indicated a height of about 2 or 3 meters).

106. Q. Was the coast land to which the pier was connected, was it sandy or rocky?
A. Rocky.

107. Q. To what height did the rocks come?
A. I mean it was a rock road.

1147

108. Q. Was not the place of execution lower than the coast, the sea shore?
A. On the coast.

109. Q. When you said you were standing on the pier, was it toward the tip of the pier or near the land?
A. Sea.

110. Q. What sort of a pier was this pier?
A. Rock Wharf.

111. Q. Were there any poles or places to tie a ship up to on the wharf?
A. Yes.

112. Q. How many were there on the pier?
A. One.

113. Q. How big was it?
A. It was not very high.

114. Q. I think there were two piers, but which pier was it that the witness was standing on?
A. Two wharfs you said, I was on this wharf.

115. Q. Which one, was it facing toward the sea, the right or the left?
A. On the right hand side.

116. Q. How long were you on that pier?
A. About an hour.

117. Q. On that day, it was during the air raid, how could you have been standing there so long?
A. There was an air raid, but I was not standing there until after the air raid.

118. Q. Later from what time did the air raid start?
A. I don't remember.

119. Q. What time was it that you say you witnessed this execution?
A. About 2:00 p.m.

120. Q. What were the weather conditions at this time?
A. It was good weather.

121. Q. What was the distance from where you were witnessing the execution and the veranda that Captain Tanaka was standing?
A. About 100 meters.

122. Q. Were there many people on that veranda?
A. Yes.

123. Q. Were there as many as to over-flow the veranda?
A. No.

124. Q. About how many were there?
A. About 100.

1148

125. Q. What sort of suit was Tanaka wearing at this time?
A. He wore green.

126. Q. What sort of an expression did Captain Tanaka have on his face?
A. He looked mad.

127. Q. How were you able to see him and see his expression when there were over a hundred people there?
A. Just by looking at him, he looked mad.

128. Q. How many years of schooling did you have?
A. I didn't have no school at all.

129. Q. When and from whom did you learn English?
A. I can not speak English.

130. Q. From whom and where did you learn Japanese?
A. Nobody taught me Japanese.

The witness was duly warned.

The Commission then, at 4:20 p.m., adjourned until 9:00 a.m., Wednesday, November 6, 1946.

1149

SECOND DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Wednesday, November 6, 1946.

The commission met at 9:50 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, and
Lieutenant Daniel Flynn, U. S. Naval Reserve, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocates.
Vivian Kilner, civilian, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

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

Tipetip Somour, the witness under examination when the adjournment was taken entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

131. Q. What did you do on Truk before the war started?
A. I was working on a boat.

132. Q. Where did you live?
A. I lived at the 41st Guard Unit.

133. Q. Where did you live before the war?
A. I was working at the Guard Unit before the war.

134. Q. When did you move over to the 41st Guard Unit?
A. I do not quite remember.

135. Q. When did the war start?
A. I forgot.

136. Q. How long have you been on Guam?
A. I came here last Friday.

137. Q. What were you doing on the day after which you testified that this execution took place?
A. I was watching the execution.

1150

138. Q. Did you have any regular work or duties on Truk every day?
A. Yes.

139. Q. What was this work?
A. I was a sailor on a boat transporting sailors from one island to another.

140. Q. Where did these prisoners of war come from that day that you saw them?
A. I do not know where they came from.

141. Q. When did you first see the prisoners that day?
A. I only happened to see them at the execution.

142. Q. What do you mean by a prisoner of war?
A. I do not know.

143. Q. What time of the day did you see these prisoners for the first time?
A. About two p.m.

144. Q. Will you explain how you tell the time of the day down there on Truk?
A. I notice it from the garrison.

145. Q. What did you notice from the garrison?
A. By the clock which they have at the headquarters.

146. Q. What kind of a clock was that?
A. A big clock.

147. Q. How far away could you see the clock?
A. From here to the wall over there.

(The witness indicated a distance of about 8 meters).

148. Q. Were you that close to the garrison headquarters that day?
A. No, not that day.

149. Q. How do you know it was two p.m. then?
A. I noticed it was two o'clock from the man with me on the wharf.

150. Q. Do you mean that the man on the wharf told you it was two p.m.?
A. I do not know from him, but I looked at his watch. He himself was carrying a watch and I looked at it.

151. Q. Are you sure you can tell time by looking at the watch?
A. Yes.

152. Q. What system of keeping a record of days do you use on Truk?
A. No. We don't have any record of this.

153. Q. On what day did this execution take place, then?
A. In the year 1944.

154. Q. Do you remember the day?
A. February the 17th.

1151

155. Q. How do you remember that day?
A. Because the man with me on the boat made a record of it.

156. Q. Why did the man on the boat make a record of it?
A. I do not know.

157. Q. What day of the week did the execution take place on?
A. I do not remember.

158. Q. The man did not take a record of the day of the week then?
A. No.

159. Q. What kind of a record did he take?
A. He only took a record of the month and year.

160. Q. Did he write this down in the book?
A. Yes.

161. Q. Did he tell you why he was writing this day down in the book?
A. No.

162. Q. How many prisoners of war did you see that day?
A. Seven.

163 Q. How many ~~is~~ are seven?

The commission felt the question should be explained to the witness and the accused reframed the question.

164. Q. Are seven more than five?
A. Yes.

165. Q. How many men are there on this commission up there?
A. Six.

166. Q. Is that more than seven?
A. Lower.

167. Q. How many lower than seven?
A. One.

168. Q. One?
A. One.

169. Q. Did you ever see white men before you saw these prisoners on that day?
A. Yes, I did.

170. Q. Are all white men Americans?
A. Yes.

171. Q. Do you understand the question? Are all white men Americans?
A. I do not really understand the question, but white people are all Americans.

1152

172. Q. How could you see the color of the skin of these prisoners if they were blindfolded?
A. I just saw it. They were only blindfolded, but I could tell they were white.

173. Q. How close to the sea wall were you?
A. About 70 meters.

174. Q. How many persons were on the sea wall?
A. Seven.

175. Q. Then there was no other persons on the sea wall?
A. Yes, there were two besides the seven prisoners.

176. Q. You say you were about 70 meters away from the sea wall. How much is a meter?
A. I do not know.

177. Q. How do you know the distance of 70 meters if you don't know what one meter is?
A. I understand from my partner, by the name of Kap.

178. Q. Why did he tell you how far away it was?
A. Because I asked him.

179. Q. Did you ask him how many prisoners there were also?
A. No.

180. Q. Could you see for yourself how many there were?
A. Yes.

181. Q. When did you first get to know Lieutenant Yoshinuma?
A. The first time I saw him was when the execution was occurring.

182. Q. How did you know it was Lieutenant Yoshinuma?
A. I understand from Kap.

183. Q. Did you ask Kap who he was?
A. Yes, I did.

184. Q. Do you see Lieutenant Yoshinuma in court today?
A. Yes, I do.

185. Q. Will you point him out.

The witness pointed to the accused, Yoshimuma.

A. Over there. In the last of the row. The last man going that way facing toward us.

186. Q. He is the man you saw at the execution?
A. Yes.

187. Q. When did you first see Lieutenant Danzaki?
A. When I first started working on the 41st Guard Unit.

1153

188. Q. When was that?
A. I do not know.

189. Q. Do you know when Captain Tanaka came to Truk?
A. I do not know.

190. Q. Did you ever talk with Captain Tanaka when he was on Truk?
A. No, I never spoke to him.

191. Q. How often did you see Captain Tanaka?
A. After working hours I happened to see him in the area.

192. Q. How many times?
A. I do not quite remember.

193. Q. Who told you he was Captain Tanaka?
A. I understand from Kap.

194. Q. Do you know what Captain Tanaka left Truk?
A. No, I do not remember.

195. Q. How large is the veranda where you saw Captain Tanaka that day?
A. The last time I saw him we were not far apart - from here to the wall.

(The witness indicated a distance of about 5 meters).

196. Q. The question was, how long or how big was the veranda?
A. It was big.

197. Q. Did you know anyone else on the veranda that day?
A. Yes, I did.

198. Q. How many more people did you know on the veranda at that time?
A. I do not quite remember.

199. Q. Who told you Captain Tanaka was on the veranda?
A. I saw him myself.

200. Q. How far away were you when you saw him?
A. About 70 meters.

201. Q. Was the execution taking place when you saw Captain Tanaka on the veranda?
A. Yes, it was.

202. Q. How did you happen to look away from the execution and look over to the veranda?
A. I saw him on the veranda before the execution was held.

203. Q. Was Kap with you at the execution?
A. Yes, he was.

1154

204. Q. You testified you heard a man shouting "Father" and "Mother". How long was he shouting this?
A. I do not know but I only heard him mentioning "mama" and "papa".

205. Q. Did Kap tell you he was shouting "papa" and "mama"?
A. No, Kap did not tell me - I heard it myself.

206. Q. Which one of the prisoners shouted this "mama" and "papa"?
A. The one Danzaki beheaded.

207. Q. How do you know it was one of the prisoners that shouted?
A. Because I heard it.

208. Q. Did you also see the prisoner when he was shouting?
A. Yes, I did.

209. Q. How far away were you from him?
A. About 70 meters.

210. Q. Who was the sentry with the prisoners?
A. I do not know his name.

211. Q. Was he Japanese?
A. Yes, Japanese.

212. Q. Was he an officer?
A. I do not know.

213. Q. You testified you heard a shot fired. Who fired the shot?
A. I do not know.

214. Q. Was this shot fired after you were chased away?
A. Yes. It was fired after we were chased from the place.

215. Q. Where did you go after you were chased away?
A. I just went back to the boat.

216. Q. How far was this away?
A. I don't really know the distance from the boat to the execution place.

217. Q. What time were you chased away?
A. About 2:30 p.m.

218. Q. What time were the bodies buried?
A. About 2:00 p.m.

219. Q. How many bodies were buried?
A. I do not remember how many they buried that day.

220. Q. Did you see them buried?
A. No.

221. Q. Then you really do not know if they were buried that day?
A. The only time I saw is when they executed them. I did not see when they buried them.

1155

222. Q. You testified they dug up bones. Did you yourself see them dig up bones?
A. Yes, I saw.

223. Q. When were these bones dug up?
A. In the year 1945.

224. Q. Did you help dig up the bones?
A. No.

225. Q. How big were the tin cans they used.

(The witness indicated with his arms a circumference about the size of a G.I. can). (About two feet in diameter).

A. About that big.

226. Q. How many tin cans were there?
A. Just one.

227. Q. Did you help carry it to the ship?
A. No.

228. Q. Did you yourself actually see what was in the tin can?
A. I did.

229. Q. You testified there was the 41st Guard Unit on Truk. How many other units were there on Truk?
A. I do not know.

230. Q. Were there any Army units on Truk?
A. Yes, there was.

231. Q. Did you work for Lieutenant Danzaki on Truk?
A. Yes.

232. Q. Did Lieutenant Danzaki often talk to you about military secrets?
A. No.

233. Q. Then he did not tell you not to say anything about this execution?
A. Yes, he did mention it to me.

234. Q. Did he talk to you alone?
A. I was with Kap.

235. Q. Did you and Kap tell Lieutenant Danzaki that you had seen the execution?
A. Yes.

236. Q. What did he say about it?
A. Danzaki told me not to say anything about it.

237. Q. Was this the same day as the execution?
A. No, it was quite a length of time afterwards.

1156

238. Q. On the same day that you told Danzaki you had seen the execution?
A. No.

239. Q. You testified that these prisoners had no trial. What do you mean by trial?
A. I do not know.

240. Q. Did someone tell you to say they had not had a trial?
A. No, nobody.

241. Q. Then your answer was not correct that they had no trial. You really do not know?

The judge advocate objected to this question on the ground that the counsel for the accused is giving a misconception to the previous answer of the question by the witness.

The accused reframed the question.

242. Q. Do you know whether these prisoners had a trial?
A. I do not know.

243. Q. Was there plenty of food on Dublon?
A. I do not know.

244. Q. Did the Japanese plant things to eat on Dublon?
A. Yes.

245. Q. Was the food scarce when they planted these things?
A. I do not know.

246. Q. When did they plant these sweet potatoes that you told about?
A. I do not quite remember.

247. Q. Was there an air raid on the day of the execution?
A. Yes.

248. Q. Where did you go when there was an air raid?
A. We went over to the cave.

249. Q. Did you go there that day?
A. Yes.

250. Q. Were there many Japanese killed that day?
A. I do not know.

251. Q. Did the Japanese shoot down many Americans that day?
A. No.

252. Q. How long did you stay in the air raid shelter?
A. About 10 or 15 minutes.

The commission then, at 10:45 a.m., took a recess until 11:05 a.m., at which time it reconvened.

1157

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

(Cross-examination continued).

253. Q. What time was the air raid that day?
A. I do not know.

254. Q. How many planes came that day?
A. I do not know.

255. Q. Was there just one air raid?
A. Twice.

256. Q. When was the other air raid?
A. In the afternoon.

257. Q. Was it before the execution?
A. One before the execution and another one after the execution.

258. Q. Were you in the air raid shelter during this air raid?
A. Yes.

259. Q. How long did these air raids last?
A. About ten or fifteen minutes.

260. Q. Where were the prisoners during the air raid?
A. I do not know.

261. Q. Did any Americans land on Truk that day?
A. I do not know.

Re-examined by the judge advocate.

262. Q. You testified that you knew Yoshinuma when you worked at the Guard Unit. Do you know whether he was an enlisted man or an officer?
A. I understand that he was ensign.

263. Q. You also testified that there were about 100 people on the veranda. Think that over. Is that correct?
A. The people which I mentioned as on the veranda were not 100. It included the people from the veranda to the ground, and was approximately 100.

264. Q. Just how many people were there on the veranda with Tanaka?
A. I do not quite remember.

265. Q. You have testified you do not speak Japanese. When someone speaks to you in Japanese, can you understand what is said to you?
A. When somebody speaks to me I can understand what is mentioned, but I cannot speak the language.

1158

Recross-examined by the accused:

266. Q. How long was Captain Tanaka on the veranda?
A. I do not know.

267. Q. How long did you see him there?
A. I do not know.

268. Q. Was Kap with you when you saw Tanaka on the veranda?
A. Yes.

269. Q. Did Kap tell you it was Captain Tanaka on the veranda?
A. No, Kap did not mention it to me. I really knew that Tanaka was on the veranda.

270. Q. Was Captain Tanaka the only officer on the veranda?
A. He was not all by himself. Some other people were with him.

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

The commission did not desire 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.

1. Q. State your name?
A. Kapirel Nedleck.

2. Q. Where do you live?
A. I live in Fefan.

3. Q. Is Fefan on Truk Atoll?
A. Yes.

4. Q. How long have you lived on Truk Atoll?
A. I was born there.

5. Q. Have you lived there all your life?
A. Yes.

6. Q. Have you ever left the Truk Atoll before this trip to Guam?
A. This is the first time.

7. Q. How old are you?
A. I am twenty-six years old.

8. Q. Do you know these three persons sitting behind the defense counsel table?
A. Yes, I know them.

1159

9. Q. Do you know their names?
A. Yes.

10. Q. Will you name each of these persons and point them out as you name them?

The witness stood and indicated wach of the accused and pointed them out.

A. The name of that man is Tanaka. The next man is Danzaki. The last man is Yoshinuma.

11. Q. Where have you known these persons or seen them before?
A. At the 41st Guard Unit.

12. Q. Where was that?
A. On Dublon Island.

13. Q. Is Dublon one of the islands of the Truk Atoll?
A. Yes.

14. Q. What were you doing in Truk in the year 1944?
A. I was working at the 41st Guard Unit.

15. Q. What were you doing for the 41st Guard Unit?
A. I was working on a boat.

16. Q. Who was your boss - for whom did you work, what officer, if any?
A. Danzaki.

17. Q. Is this the same Danzaki you pointed out in this room?
A. Yes.

18. Q. Who was the commanding officer of the 41st Guard Unit?
A. Tanaka.

19. Q. That was in 1944?
A. Yes.

20. Q. What was Danzaki's work in the 41st Naval Guard Unit?
A. Danzaki was in charge of all transportation.

21. Q. What kind of a boat was this you were working on?
A. A thirty foot boat.

22. Q. What was the boat used for?
A. We were transporting people from one island to another.

23. Q. Did you transport both Japanese and natives?
A. Japanese only.

24. Q. Who was in charge of the boat?
A. Danzaki.

1160

25. Q. Were there many Japanese working on this boat?
A. No Japanese with us.

26. Q. Was the crew an all-native crew?
A. Yes.

27. Q. Who was the captain of the crew?
A. My younger brother was the captain of the boat.

28. Q. Were you on Truk during the first big air raid in 1944?
A. Yes.

29. Q. Was that the first big air raid you had ever had on Truk?
A. Yes.

30. Q. Were there any Japanese killed in that raid?
A. Yes, some Japanese died during that air raid.

31. Q. Were there any ships sunk in the harbor?
A. Yes.

32. Q. Do you remember the day of this raid?
A. Yes.

33. Q. Will you tell the commission this date of the raid, please?
A. In the year 1944, February 17.

The commission then, at 11:26 a.m., took a recess until 2:10 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the interpreters, each of the accused and his counsel.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Kapirel Nedleck, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Examination continued).

34. Q. Who were other members of the crew of this boat that you worked on in Truk?
A. Myself, Tipetip, and Joseph.

35. Q. Does Tipetip have any other name?
A. I don't understand.

36. Q. Is Tipetip known by any other name or does he have any other name that you yourself know?
A. Tipetip is his name.

37. Q. Do you know of anybody by the name of Somour in Truk?
A. The father of Tipetip.

38. Q. Has Tipetip come to Guam to testify in this case with you?
A. Yes.

39. Q. Did you ever seen any white men on Truk during the year of 1944?
A. Yes.

40. Q. How many did you see?
A. Seven.

41. Q. Where did you see them?
A. I saw them when they beheaded them.

42. Q. Where was that?
A. On the sea wall.

43. Q. On what island was the sea wall?
A. Dublon.

44. Q. Can you recall the date?
A. Yes.

45. Q. Will you tell the commission the date you saw this event?
A. I do not understand the question.

46. Q. Do you recall the date that you saw these seven men executions?
A. In the year 1944, February 17.

47. Q. Was the 17th of February 1944 the first time that you had seen these seven men?
A. Yes.

48. Q. Where were the men the first time you saw them on that day?
A. I don't know exactly where they were but I saw them in the custody of the commander.

49. Q. Was anyone with these seven persons on that date when you saw them?
A. Yes.

50. Q. Who was with them?
A. Danzaki and Yoshinuma and another one.

51. Q. Will you tell the commission what you saw on that day regarding the prisoners?
A. I saw them marching them up to the sea wall and after arriving at the sea wall Yoshinuma beheaded six of them. The other one beheaded the last one which didn't die immediately and then he took his sword and stabbed him at the same time.

52. Q. Who stabbed this prisoner?
A. Danzaki.

1162

53. Q. Will you explain in more detail just what Danzaki did to the prisoners?
A. When he took his sword and chopped the man's head he didn't chop him by the head but hit him on the shoulders which he didn't die immediately and stabbed him and pulled out his sword from this man's body, he kicked it and the body of that man fell from the sea wall.

54. Q. When Danzaki stabbed this person, in what part of the body did he stab him?
A. On his back.

55. Q. When this person was kicked off the sea wall did he make any sound or outcry?

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

The judge advocate, with the permission of the commission withdrew the question.

56. Q. When this person fell off the sea wall, and I'm speaking of the person Danzaki stabbed, do you know if that person made an outcry, sound or any noise?
A. Screaming.

57. Q. For how long did you hear him screaming?
A. Approximately one hour.

58. Q. Did you hear the person say anything, you thought you could understand?
A. Yes.

59. Q. What did you hear the person say?
A. Crying and saying "mama" and "papa".

60. Q. Now, these words "mama" and "papa" are these words that you recognize from the Trukese language?
A. Yes.

61. Q. Did you see any other Japanese around this person who was screaming or come near him at any later time that day?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

The question was repeated.

A. Yes, with myself.

62. Q. What was your answer again?
A. I said, "Yes and myself". 24

63. Q. Did you see any other Japanese person near that person after he was screaming?
A. Yes.

1163

64. Q. Who was this person, do you know?
A. I don't remember.

65. Q. What did he do regarding this prisoner, if anything?
A. They were just watching.

66. Q. Do you know if this seventh person who Danzaki stabbed, later died, or was screaming, or what happened to him?
A. I just only heard him screaming.

67. Q. Did you later see the bodies of these seven white men who were killed?
A. Yes.

68. Q. When did you see them?
A. On the front of the sea wall.

69. Q. What was the position of their bodies?
A. They were white complexion.

70. Q. The question was, "What was the position of their bodies", were they sitting or standing, leaning, or laying, just how?
A. They were laying.

71. Q. Did you observe how many bodies were in front of the sea wall?
A. Yes.

72. Q. How many?
A. Seven and besides those two men over there.

73. Q. Were these seven bodies; were they ~~they~~ the white men you have previously seen beheaded?
A. Yes.

74. Q. Now, when you saw these seven men in front of the sea wall, were they dead, did you observe whether they were still living or whether they were dead?
A. One of them was alive.

75. Q. Were the other six dead?

The accused objected to this question on the ground that the judge advocate is asking for a conclusion of the witness.

The judge advocate replied.

The commission announced that the objection was sustained.

76. Q. On ~~these~~ Those six bodies, did you notice whether their heads were attached to the bodies or not?

The accused objected to this question on the ground that the judge advocate is asking a leading question.

The judge advocate replied.

1164

The commission announced that the objection was not sustained.

The question was repeated.

A. Their heads were still attached to the bodies but were only held by skin. EXT.

77. Q. Was there any movement in these six bodies, were any of them moving around?
A. No.

78. Q. After you heard this seventh white man scream, for about an hour, did you observe what happened to him, if anything?
A. All I know after that is a shot was fired.

79. Q. After you heard that shot did you hear any further screams from that white man?
A. No.

80. Q. Did you see the person who fired that shot?
A. No.

81. Q. Now, did you observe whether or not the sound of this gun shot, or this shot you heard was in the vicinity of where this seventh man was laying?
A. Where this body lay at.

82. Q. Then you say that the sound of this shot came from the vicinity where this seventh person was laying, is the answer correct?
A. Yes.

83. Q. Now, this Danzaki, who you testified you saw strike and stab this person, is he the same Danzaki you have pointed out in this court room?
A. Yes.

84. Q. The Yoshinuma whom you have testified beheaded six persons on the sea wall, is he the same Yoshinuma you have pointed out in the court room?
A. Yes.

85. Q. Will you explain to this commission just how Yoshinuma beheaded those six persons?
A. Cutting one by one he then pushed him over the sea wall with his foot.

86. Q. What did he use to cut their heads off with?
A. A long sword.

87. Q. Did you observe him do anything else during the time he was cutting their heads off?
A. After beheading one by one he is taking some water and washing the blood out of his sword. EXT.

88. Q. Did you see the bodies of these executed persons after you heard that gun shot?
A. Yes.

89. Q. How many bodies did you see after you heard this shot fired?
A. Seven.

1165

90. Q. Is the body of the person that Danzaki stabbed; did you notice whether or not it was moving after you heard this shot fired?
A. It didn't move at all.

91. Q. Then, you observed all seven bodies after the shot was fired, is that right?
A. Yes.

92. Q. And there was no movement in any of the bodies?
A. No.

93. Q. How were these seven bodies dressed?
A. Some of them wore dungarees and some of them wore khaki.

94. Q. Was that khaki pants and shirts both?
A. Yes.

95. Q. Did you observe whether or not they wore hats?
A. They didn't wear hats.

96. Q. How near to these seven persons were you when you were noticing their clothing?
A. About 70 meters.

97. Q. When you observed these persons after they were kicked off the sea wall, how close were you standing to them?
A. About 50 meters.

98. Q. Did these persons remain dressed, that is did they keep all their clothes on during this execution?

The accused objected to this question on the ground that it is leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

The question was repeated.

A. When they were going to behead them, they removed their shirts from them.

99. Q. Who removed their shirts?
A. The sentry.

100. Q. Did you notice the position of these persons hands while they were being executed?
A. They were tied behind their backs.

101. Q. Do you know whether or not these persons could see?
A. They didn't see anything because they were blindfolded.

102. Q. Describe how these persons were placed on the sea wall?
A. The seven of them marched up to the sea wall and one Japanese was ahead of them and one in the rear.

1166

103. Q. On the sea wall what position did the persons assume, how did they get on the sea wall, or what position was their bodies on the sea wall before they were executed?
A. After reaching the sea wall they ordered them to sit on the sea wall with their feet hanging on the front of the sea wall.

104. Q. Did you observe any other Japanese?

The judge advocate, with the permission of the commission, withdrew this question.

105. Q. Do you know the rank or rate of Yoshimuma at the time of the execution?
A. Ensign and he is in charge of the machine shop.

106. Q. Do you know the rank or rate of Danzaki at the time of the execution?
A. Yes, he is full lieutenant.

107. Q. Do you know to what unit these two officers belonged on that date?
A. One was of the Sea Patrol unit and the other was the head of the Repair Unit.

108. Q. Was that within the 41st Naval Guard Unit?

The accused objected to this question on the ground that the question was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

The question was repeated.

A. Yes.

109. Q. Was the 41st Naval Guard Unit of the Japanese Navy?
A. Yes.

110. Q. Did you see any other officers at that execution that you knew that day or in the vicinity of the execution?
A. Yes.

111. Q. Who did you see?
A. I saw Tanaka on the veranda of the quarters.

112. Q. How far was the veranda of the quarters from where you were standing?
A. Approximately 100 meters.

113. Q. How far was the veranda where you saw Tanaka from the sea wall where these persons were executed?
A. About 50 meters.

114. Q. Now, in relation to the sea wall where these men were executed, did you notice what way Tanaka was facing? Did you notice whether Tanaka was facing the sea wall or had his back to the sea wall?
A. Facing the sea wall.

1167

115. Q. Did you see Tanaka on this veranda during the time the execution was taking place?
A. Yes.

116. Q. Was anyone with you during the time you were observing this execution?
A. Yes.

117. Q. Who was with you?
A. My brother who died and Tipetip.

118. Q. Did you observe the color of the skin of these seven persons that you saw that day?
A. Yes.

119. Q. What color was the skin?
A. They were white and had red hair.

120. Q. Do you know where these persons were buried?

The accused objected to this question on the ground that the judge advocate has not shown that the prisoners were buried, and is asking for a conclusion of the witness.

The judge advocate, with the permission of the commission, withdrew the question.

121. Q. Do you know if these seven persons were buried?
A. To the best of my knowledge, the very day they just covered them with coconut leaves and the next day they put some dirt on top of them.

122. Q. Do you know whether or not these bodies were ever removed from that spot?
A. No.

123. Q. Now, getting back to these khaki clothing and duggarees which these seven persons wore, have you ever seen any clothing since that time that resembled the color those persons wore?
A. No.

124. Q. Have you ever observed the color of the persons that now occupy Truk, the Occupation Forces on Truk?
A. Yes.

125. Q. Do they wear khaki clothing in Truk now?
A. Yes.

126. Q. Does the khaki clothing that these seven persons wore look anything like the khaki clothing you see in Truk?
A. Yes.

127. Q. What country now has military personnel occupying Truk?
A. I do not understand the question.

128. Q. What occupation forces are not in Truk, what country's military personnel are there?
A. Americans.

129. Q. Have you ever seen any American sailors on Truk?
A. Yes.

130. Q. Have you ever seen them wearing dungaree clothing?
A. Yes.

131. Q. Now, I'm asking you whether or not this dungaree clothing which you saw on some of these seven persons executed resemble the color that the American sailors now wear on Truk?
A. Yes.

132. Q. Do you know whether or not there were any Americans held on Truk as prisoners before the day of the execution?
A. Yes.

133. Q. How long before the day of the execution do you know of American prisoners being held on Truk?
A. Two days before the execution.

134. Q. How do you know this?
A. I heard it from the sailors.

The accused objected to this answer on the ground that it is hearsay and requested it be stricken from the record.

The judge advocate replied.

The commission announced that the objection was not sustained.

135. Q. After the day of this execution did you ever have any conversation with Danzaki, or did Danzaki ever tell you anything regarding this execution?
A. When the expiration of our work at the garrison, Danzaki explained that if any Americans inquired to us we must not mention it.

136. Q. Must not mention what? Did he say what you must not mention?
A. Danzaki, when they told us to go home, Danzaki explained to us that any questions that the Americans asked us not to mention anything concerning what we have seen.

137. Q. When did Danzaki make this statement?
A. In the year 1945, December.

138. Q. Where was that at?
A. Right at the sea wall.

139. Q. What island?
A. Dublon.

140. Q. Had the Americans occupied Dublon at that time?
A. No.

1169

141. Q. Was the 41st Naval Guard Unit still on Dublon at that time?
A. Yes.

142. Q. Getting back to the sailors that told you of the American persons on Truk; what sailors told you, of what country?
A. Japanese sailors.

143. Q. Do you know whether or not the bodies of these executed persons were ever removed toward the end of the war or before the war was over?
A. I don't know.

144. Q. This area where these bodies fell in front of the sea wall, was that ever used for any other purpose than the base of the sea wall?
A. They enlarged the area, and they planted some sweet potatoes there.

145. Q. Do you know what was ever done with these bodies?
A. In October 1945, they dug up this area and took the bones out of the hole.

146. Q. Did you see them dig up these bones?
A. Yes.

147. Q. Do you know what they placed the bones in to take them away from the area?
A. Cans.

148. Q. Where did they take the bones to?
A. I saw them take them out in a small boat and then went out to sea.

149. Q. Do you know the names of any of these men that were executed?
A. I don't.

150. Q. Do you know who was the commanding officer of the 41st Naval Guard Unit on February 17, 1944, the day of the execution?
A. Tanaka.

151. Q. You said you worked at the Naval Guard Unit, but where did you work there?
A. 41st Guard Unit.

152. Q. Where do you work every day?
A. Our boat was just tied beside the wharf waiting for the orders.

153. Q. Then you do not go to the headquarters of the Naval Guard Unit and work there?
A. If we have no work on our boat they called us ashore to work with them.

154. Q. How many times a day does such a thing happen?
A. It happens every day but when they told us to take persons to another island we do not work ashore.

The commission then, at 3:20 p.m., took a recess until 3:38 p.m., at which time it reconvened.

1170

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

Kapirel Nedleck, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

Cross-examined by the accused:

155. Q. From whom do you receive orders at headquarters?
A. From Danzaki.

156. Q. Are there any times when you receive orders from Danzaki's subordinates?
A. The one below Danzaki.

157. Q. Do you know his name?
A. I knew it, but I have forgotten it.

158. Q. Do you go to headquarters, receive your orders and go straight back to the boat?
A. Yes.

159. Q. Then, how long is the boat at the wharf or pier while you are receiving orders?
A. Immediately after I receive orders to where I am going then I soon leave.

160. Q. When did you first go to the Naval Guard Unit Headquarters?
A. I don't know exactly when I started, but it was five years I worked with them.

161. Q. How many people were working at the Naval Guard Unit Headquarters?
A. Many of them were working under the command of Tanaka.

162. Q. What is the number of a great many?
A. I don't know exactly, but to the best of my knowledge about ten.

163. Q. Do you know the faces and the names of those ten people?
A. I did not know.

164. Q. Since when have you known Captain Tanaka?
A. When he first came and relieved the other one.

165. Q. When was this?
A. About in the year 1944.

166. Q. How many times did you meet Captain Tanaka?
A. I have never met him, but Danzaki explained to us that ~~that~~ he was Tanaka. 217.

167. Q. When Danzaki said this what was the distance between you and Captain Tanaka?
A. It is not a very far distance, about from there to this wall.

(The witness indicated a distance of about three meters).

1171

168. Q. On that day of the execution on what part of the veranda was Captain Tanaka?
A. On the veranda facing the sea shore.

169. Q. What sort of clothing was he wearing?
A. The same color as what he is wearing now.

170. Q. What sort of an expression did he wear?
A. I don't really know.

171. Q. How many people were on the veranda at that time?
A. I don't know exactly, but to the best of my ability they were all officers.

172. Q. Were those officers watching the execution?
A. Yes.

173. Q. What unit did they belong to?
A. They belonged to the 41st Guard Unit.

174. Q. If they were people from the Naval Guard Unit, they were people that you already knew, isn't that right?
A. Some of them I knew, and some of them I did not know.

175. Q. What were the names of the people you knew?
A. I knew the deck officer and the officer in charge of Internal Affairs.

176. Q. Then how many people were on the veranda?
A. About 15 to 20.

177. Q. Are there so many officers in the Naval Guard Unit?
A. Yes.

178. Q. Were those officers saying anything at that time?
A. No, I don't know.

179. Q. Were any of the officers armed?
A. They were in full uniform and were wearing swords.

180. Q. Weren't they wearing steel helmets, against air raids?
A. They didn't wear them, they just tied it around their necks.

181. Q. From where you were standing, what was the distance to the veranda from where you were standing?
A. About 100 meters.

182. Q. Wasn't there any coconut trees between the headquarters and yourself?
A. Yes.

183. Q. Where was the first time that you saw the prisoners as they were going to the scene of the execution?
A. I only saw them when they were marching off to the sea wall.

184. Q. What was the distance you saw them walk?
A. About 100 meters.

1172

185. Q. Were you watching these prisoners all the time during the 100 meters?
A. Yes.

186. Q. Who was the person walking at the front of the column?
A. Yoshimuma is at the head of the column.

187. Q. Who was the next person?
A. In the middle was Danzaki and the last of the column was the sentry.

188. Q. What was the distance between the prisoners and Yoshimuma?
A. About three meters apart.

189. Q. Was the distance from the first prisoner to the second prisoner three meters also?
A. The prisoners were close together.

190. Q. Were they tied at that time?
A. Yes.

191. Q. Where were they tied?
A. They were all tied with their hands behind their backs and they were marching on one by one.

192. Q. At that time, did Yoshinuma and Danzaki have their swords drawn?
A. Yes, they had them withthem.

193. Q. Did they have any small arms?
A. No, just a pistol.

194. Q. What did the sentry have?
A. The sentry had with him a pistol and a rifle.

195. Q. Who gave the orders that halted the marching of the prisoners when they arrived at the sea wall?
A. Yoshinuma is the one that ordered them to halt and he is the one who ordered them to sit on the sea wall one by one.

196. Q. Who made them sit?
A. Yoshinuma and the sentry.

197. Q. Do you think it was difficult for them to sit because their hands were tied behind them?
A. Yes, I think it was difficult.

198. Q. What happened after that?
A. They held their ~~both~~ shoulders and they kicked them by the leg. 6°17.

199. Q. Did all of the prisoners sit then?
A. Yes.

200. Q. What was the distance between each prisoner?
A. About a meter.

201. Q. From what side and who first started to cut?
A. It was Yoshinuma who started.

1173

202. Q. Did the prisoners sit on the wall and dangle their feet out to sea?
A. Yes.

203. Q. What was the height of the sea wall from the base of the sea wall on the surface of the water?
A. About three feet.

204. Q. Was there sand or water at the bottom of the sea wall?
A. Soil.

205. Q. Can you climb down to the soil from the top of the sea wall?
A. Right on the sea wall about not very far from the sea wall it is hard, but as you walk a little further it was mud.

206. Q. How long did the execution take?
A. About ten minutes.

207. Q. When Yoshinuma started to cut did the other prisoners show any tendency to escape?
A. No.

208. Q. Were they looking toward where the executioner was executing? 1214.
A. That I could not say.

209. Q. Couldn't you see the prisoners from where you were?
A. Yes, I saw them, but I didn't recognize them because they were blindfolded.

210. Q. But couldn't you distinguish whether they looked toward the right or toward the left?
A. They didn't look toward either side.

211. Q. When the prisoners were being executed didn't they make a loud shout?
A. Six of them didn't scream but only one.

212. Q. Did you see any American planes that came over Truk on February 17, 1944?
A. Yes.

213. Q. Have you ever seen any air planes before?
A. Japanese planes I saw before.

214. Q. Did you see an American plane for the first time then?
A. Yes.

215. Q. How did you know that it was an American plane?
A. I just noticed it because they throw bombs and machine gunned us.

216. Q. What sort of a plane was it?
A. A small one.

217. Q. Where did you see this plane?
A. On ~~the~~ wharf. 1217

1174

218. Q. Weren't you afraid of air planes?
A. On the first time I am not afraid, I am happy to see it.

219. Q. As the American plane was attacking weren't you afraid?
A. On the first time I was not nearly afraid, but the next time I was afraid.

220. Q. Then what did you do?
A. On the second raid I called my partners to go to the cave.

221. Q. Were you looking at the planes from the air raid shelter?
A. When I am inside I could not see it, but when I am outside I could see it.

222. Q. How many planes did you see that day?
A. More than ten.

223. Q. What time was it when you saw the first plane?
A. Early in the morning, at 6:00 o'clock ~~p~~a.m.

224. Q. What was the next time you saw the plane?
A. After dinner.

225. Q. At that time did you enter the air raid shelter?
A. Yes.

226. Q. When was it when the execution took place?
A. Approximately 1:00 or 1:30 ~~p~~a.m.

227. Q. How long were you watching the execution?
A. About fifteen minutes.

228. Q. How long did it take to execute one prisoner?
A. I don't know.

229. Q. Before and after the execution were there any air attacks and did you enter an air raid shelter?
A. Yes, before the execution and after the execution.

230. Q. How much time before the execution was the air raid?
A. In the morning at 6:00 o'clock the plane arrived and it was about 11:00 o'clock whenthey left.

231. Q. How about afterwards?
A. In the morning when the planes were flying above us and 11:00 o'clock we were eating our dinner and ~~it~~ they brought in a dead body.

232. Q. Have you ever been on a plane?
A. No.

233. Q. Did you see them sink Japanese War Ships or Merchant Marine?
A. Yes.

234. Q. How many did they sink?
A. Four that I saw.

235. Q. Did you see Japanese personnal wounded or killed?
A. Yes.

1175

236. Q. Were the people enlisted men and officers of the Naval Guard Unit?
A. Yes.

237. Q. Why were you at the pier during the air raid?
A. Because I wanted to see it, that is the first time I seen it.

238. Q. Have you ever been to school?
A. No, I did not have any schboling by the Japanese, only a little by missionaires.

239. Q. Did you learn English?
A. No.

240. Q. Did you learn Japanese?
A. No.

The witness was duly warned.

The commission then, at 4:25 p.m., adjourned until 9:05 a.m., Thursday, November 7, 1946.

1176

THIRD DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Thursday November 7, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocate.
Vivian Kilner, civilian, reporter.
Each of the accused, his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

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

Kapirel Nedleck, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

241. Q. You testified you were told by Danzaki not to talk about the execution. What month and day was this?
A. I know the month and year, but I forget the day.

242. Q. What month was it?
A. December.

243. Q. Where, and at what time did you hear this?
A. He told me it about 1:00 p.m. on the wharf.

244. Q. Were you with someone when he told you this or were you alone?
A. Someone was with me.

245. Q. Who was this other person?
A. Tipetip, Masi and Rokero.

246. Q. Did Masi and Rokero see this execution?
A. Only Tipetip. Masi and Rokero did not see.

247. Q. You testified before that the day of this execution was the 17th of February 1944. How can you remember this day so clearly after such a long time?
A. Because I made a record of it.

1177

248. Q. What day of the week was this?
A. I do not remember. I did not record the day.

249. Q. Did you know there was a big air raid on Truk that day?
A. Yes.

250. Q. Do you know when it started?
A. Yes.

251. Q. What time was this?
A. Six o'clock.

252. Q. Do you know when the next big air raid on Truk was?
A. Yes.

253. Q. When was this?
A. In the month of February.

254. Q. What day of February?
A. I made a mistake. It was April.

255. Q. What day of April?
A. I do not remember the date.

256. Q. Did you make a record of it?
A. I did not mark on that day because I went over to the cave.

257. Q. Did you know that there were many reports that the enemy was landing that were circulated that day?
A. I did not know.

258. Q. Where did the execution of the prisoners take place?
A. On the sea wall.

259. Q. What sea wall was this?
A. On the sea wall of the 41st Guard Unit.

260. Q. From what position were you looking on the execution?
A. I was facing the execution while it was occurring and then I returned back to my boat.

261. Q. Where was the location of that position?
A. I am standing.

262. Q. Where were you at that time?
A. On the wharf.

263. Q. What was the distance from where you were and the place of the execution?
A. About fifty meters.

264. Q. In yesterday's testimony I believe you said 70 meters. Which is the actual distance?
A. Where I am standing as far as the execution was about fifty meters, but to where the boat was, it was seventy meters.

1178

265. Q. Did you ever see the hands of the prisoners which were tied, untied?
A. They never untied them.

266. Q. Did you see them untie their hands?
A. No.

267. Q. In yesterday's testimony you testified that they removed their shirts from the prisoners. How could they remove their shirts when they did not untie their hands?
A. The prisoners themselves did not remove them, but the Japanese did take their shirts away from them.

268. Q. With the arms of the prisoners tied, how could they remove their shirts?
A. They did not take it off entirely, they just slipped it off their backs.

269. Q. You testified that the hair of the prisoners was red and the skin white. Did you actually see this or did you imagine this?
A. Yes, I saw it.

270. Q. From far away did you actually see the red hair?
A. Yes.

271 Q. In yesterday's testimony you said that the head of the prisoner was attached to the body by only the skin. How did you see this?
A. We saw this because we went over where this execution was and saw it ourselves and then they chased us away.

272. Q. Did you touch the portion of the head and the neck?
A. I just saw it, but I did not touch it.

273. Q. How long were you watching the execution of the prisoners?
A. About ten minutes.

274. Q. You said yesterday you saw the prisoner screaming about two hours. You are not mistaken in this?
A. No. We stood watching them when he was screaming. It took about one hour.

275. Q. When you were watching this prisoner scream for an hour was there anybody at the scene of the execution?
A. Somebody with me when we were watching the screaming, but soon they chased us away and at the same time they covered the bodies of the prisoners.

276. Q. How many other persons were there watching?
A. About seven persons.

277. Q. Where did you go after watching this?
A. I returned to my boat.

278. Q. You said you heard a shot. Where did you hear this?
A. On my boat.

279. Q. At that time did you not look back and see what was happening?
A. No.

1179

280. Q. You testified that after you heard the shot you saw the body. How did you see this?
A. Because so many people were running back and forth with their rifles with them.

281. Q. Was your work so slack that you were able to watch this execution for hours?
A. We did not work at that time.

282. Q. Didn't your boat take cover from an air raid?
A. No.

283. Q. Did you actually know Yoshinuma?
A. Yes, I did.

284. Q. How many times have you met Yoshinuma before the execution?
A. Many times.

285. Q. How many times have you met Yoshinuma after the execution?
A. Many times also.

286. Q. When was the last time you saw him? Do you remember this?
A. I do not remember.

287. Q. Can you remember the approximate date?
A. I can not.

288. Q. Do you remember meeting him about August?
A. I do not remember mentioning August, but one day during an air raid I went to the shelter and he told me not to go in and said that if I died ashore no one would take care of us, but if we died on the boat, then somebody would take care of our bodies.

289. Q. Do you remember meeting him in September?
A. No.

290. Q. Do you remember meeting him at the end of the year?
A. I did not meet him because I heard that he was injured during the raid and went back to Japan.

291. Q. Did you ever speak directly with Yoshinuma when you met him?
A. Yes sir, I have spoken with him when any damage to the engine was to be repaired.

292. Q. You said they dug up the bones of the prisoners. How many bodies did they dig up?
A. I don't know if they dug up all the bones of the six men. They did not take it all at one time.

293. Q. Did you see the bones in the cans closely?
A. I only saw these bones when they dug it out from the holes, and after they put it in the can they covered it up so I can not see it.

294. Q. Do you know Captain Tanaka?
A. Yes.

295. Q. Do you know how long Captain Tanaka was on Truk?
A. Approximately six or seven months.

296. Q. Was Captain Tanaka on Truk when these bones were dug up?
A. He was not there.

297. Q. Did you speak Japanese to Yoshinuma when you spoke to him about repairs to your boat?
A. Yes.

298. Q. You do speak Japanese then and understand it?
A. Very little.

299. Q. These seven men you have been testifying about. How did they get to Truk?
A. I do not know.

300. Q. How do you remember the day of this execution?

The judge advocate objected to this question on the ground that the witness had already answered the same question twice previously, once on direct examination and again on cross examination.

The accused made no reply.

The commission announced that the objection was not sustained.

A. Because I made a record of it.

301. Q. What kind of a record did you make of it?
A. I made a record on my little note book.

302. Q. What kind of a book was it?
A. Just about this size.

(The witness indicated with his hands a book about six inches in length and three inches in width).

303. Q. What did you write with in this book?
A. I recorded the day of my birth and some other log of the work I am doing at the 41st Guard Unit.

304. Q. What did you write with?
A. I wrote both with ink and pencil.

305. Q. Have you still got this book?
A. It was in my possession when I was with the 41st Guard Unit, but when I went home to Fefan Island the army force at Fefan Island took it away from me.

306. Q. Was this the Japanese Army?
A. Yes, because they put me in custody four days after I returned from the 41st Guard Unit.

307. Q. On the day of the execution was someone with you all that day?
A. Yes.

308. Q. Who was with you?
A. Tipetip and my brother, who died.

309. Q. When you first saw the prisoners of war how many were there?
A. Seven.

310. Q. At what time of day was this?
A. One-thirty p.m.

311. Q. How did you know that it was one-thirty p.m.?
A. I noticed it from the bell ringing from the headquarters.

312. Q. What did the bell ring from the headquarters?
A. A big bell.

313. Q. What did the bell say?
A. At one o'clock it rings twice and at one-thirty it rings three times.

314. Q. Did you have a watch at that time to tell time with?
A. Yes.

315. Q. Did you and Tipetip look at your watch at that time?
A. Yes.

316. Q. Did you tell Tipetip it was one-thirty?
A. I do not remember.

317. Q. How did you get this watch? Where did you get it and how?
A. I bought it at the clock store at Dublon.

318. Q. Have you still got this watch?
A. No.

319. Q. What happened to it?
A. I gave it to a Japanese friend of mine.

320. Q. When did you give it to the Japanese friend?
A. After the war.

321. Q. How far away from the prisoners were you when you first saw them?
A. About 50 meters.

322. Q. Where were you going at that time?
A. I am not going any place.

323. Q. Where were you, then, at that time?
A. On the wharf.

324. Q. Was this the wharf on which the prisoners were?
A. Yes.

1182

325. Q. That is the first time you saw the prisoners that day?
A. Yes.

326. Q. Were you on the same wharf with the prisoners?
A. On the same wharf, but on the extreme end of the sea wall.

327. Q. Was Tipetip with you?
A. Yes.

328. Q. Were you the only persons on the wharf besides the prisoners and the guards?
A. We are three of us.

329. Q. How big is this wharf?
A. I don't know.

330. Q. Was your boat tied up to the wharf where these prisoners were executed?
A. Yes.

331. Q. How long did you stay on the wharf?
A. In the afternoon we were there watching, then they chased us away.

332. Q. How long were you there?
A. About one and one-half hours.

333. Q. Were you on the wharf or down in your boat?
A. On my boat.

334. Q. Then you were never up on the wharf during the time of execution?
A. Yes. During the execution we were at the wharf, then we turned back to our boat.

335. Q. How did you get from the wharf into your boat?
A. I walked to the boat because it was tied alongside the wharf.

336. Q. Was it even with the wharf?
A. Yes.

337. Q. How was the tide at that time?
A. Regular. Now low. Not high.

338. Q. From your boat you could still see what was going on at the wharf then?
A. No, I can not see.

339. Q. Why not?
A. If I stand on the deck, I could see it, but if we go inside the cabin, I cannot see.

340. Q. You went inside the cabin and stayed there on your boat?
A. I was in the cabin.

1183

341. Q. All during the time the prisoner was screaming?
A. Yes.

342. Q. Did you actually see the prisoner who was doing the screaming?
A. Yes.

343. Q. How long did you see him?
A. I don't know exactly the time, but only I heard the screaming.

344. Q. Did you also see who was screaming?
A. I saw it because I was on the wharf when this man started screaming and then they told us to go away.

345. Q. Did any planes come in during the execution?
A. No, but after the shot of a gun a plane came in.

346. Q. Where were you when this shot was fired?
A. I was inside the cabin of my boat?

347. Q. Inside the cabin?
A. Yes, inside the cabin.

348. Q. Did you know where this shot was fired from?
A. Yes. I heard it and when we heard it, we jumped out from the boat to the wharf.

349. Q. What did you see when you jumped out?
A. When I came out of the cabin of my boat, I saw some sailors with their rifles in the vicinity where the white people were.

350. Q. Were they firing at the plane?
A. No.

351. Q. Did you see the plane at that time?
A. Later.

352. Q. How much later?
A. Approximately ten minutes.

353. Q. Are you sure this is the first time the plane came up?
A. This is the second time. Once in the morning.

354. Q. Did the sailors fire at the plane?
A. No, they did not fire.

355. Q. They did not fire when you saw them?
A. No.

356. Q. How close to Lieutenant Yoshimuma were you when you were on the sea wall?
A. Fifty meters.

357. Q. Did he see you?
A. I do not know if he saw me.

1184

358. Q. What did you see him doing on the sea wall?
A. Nothing.

359. Q. I am going to repeat the question. What did you see him doing on the sea wall?
A. I saw him cutting the heads of these people.

360. Q. How many heads did he cut off?
A. Six.

361. Q. Then what did he do?
A. He is cutting off the heads of these people one by one and after cutting one he wiped off the blade of his sword.

362. Q. Where did he get the water to wash his sword?
A. The sentry brought a bucket of water.

363. Q. Who was this sentry?
A. I don't know.

364. Q. Was he Japanese?
A. Yes.

365. Q. With what was he armed?
A. He was armed.

366. Q. With what?
A. He carried a pistol and a rifle.

367. Q. Did he have a sword?
A. Just a short one, a bayonet, I think.

368. Q. This was not the sword that was used to cut off the prisoner's heads?
A. No.

369. Q. What were these prisoners hands tied with?
A. They tied them with line.

The commission then, at 10:10 a.m., took a recess until 10:27 a.m., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

Kapirel Nedleck, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

370. Q. Did you see Lieutenant Yoshimura the day before the execution?
A. Yes.

1185

371. Q. Where did you see him?
A. In the machine shop.

372. Q. When did you first see him on the day of the execution?
A. Before the execution I met him.

373. Q. Where?
A. In the machine shop and in front of the headquarters.

374. Q. At what time of day was this?
A. I don't know.

375. Q. Then the next time you saw this was at the execution?
A. Yes. I did not meet him after the execution.

376. Q. But during the execution you did see him at the scene?
A. Yes.

377. Q. At what time was that?
A. One-thirty p.m.

378. Q. Did you see him the day after the execution?
A. Yes.

379. Q. Where?
A. After he cut the heads of these six men, he went back to the quarters?

380. Q. The next day did you see him?
A. I do not remember.

381. Q. This veranda that you testified about, was that at an air raid shelter?
A. No. It was quarters.

382. Q. How long did Captain Tanaka stay on the veranda?
A. I do not know how long he was on the veranda, but since the start of the execution to the end of the execution he was on the veranda.

383. Q. Did you go to the air raid shelter that day?
A. Yes, in the afternoon.

384. Q. How many times?
A. One.

385. Q. Before the execution?
A. After.

386. Q. Did you see Captain Tanaka at the air raid shelter?
A. I did not see him because they were in a separate hole.

387. Q. How long did you stay at the air raid shelter?
A. Fifteen minutes.

1186

388. Q. Why did you leave the air raid shelter?
A. Because the airplanes were gone.

389. Q. Did everybody leave the air raid shelter when you left?
A. Yes.

390. Q. Was there an air raid before the execution?
A. Yes.

391. Q. During that time you stayed on the boat?
A. Yes.

392. Q. You testified about the prisoners hair. Did all the prisoners have red hair?
A. Yes.

393. Q. How close to the prisoners were you when you saw they had red hair?
A. About 100 meters.

394. Q. The bones you testified as being dug up, who dug up these bones?
A. Some of the sailors and myself.

395. Q. Who ordered you to dig up the bones?
A. I don't know if the new commanding officer or Danzaki gave the order.

396. Q. How do you know that they were the bones of the prisoners that were executed?
A. Because they dug the bones where the execution occurred.

397. Q. When did you dig the bones?
A. In the month of October.

398. Q. What year?
A. 1945.

399. Q. Did they take the bones on your ship out to sea?
A. They did not put it on my boat.

400. Q. How do you know that Captain Tanaka was the commanding officer of the 41st Guard Unit?
A. Because the officer under Tanaka mentioned it to us.

401. Q. When did he mention this?
A. I do not know exactly the date but one the arrival of every commanding officer they informed us.

402. Q. Did he tell you that Captain Tanaka was commanding officer of the Guard Unit after the execution took place?
A. Before.

403. Q. How long before?
A. A few months before.

1187

404. Q. When did the new commanding officer come?
A. I don't know exactly the date, but Tanaka went to Japan and then the new commanding officer arrived.

405. Q. How soon after the execution did this happen?
A. Six months.

406. Q. How do you know it was six months afterwards?
A. Because I really remember.

407. Q. Did you make a record of it?
A. No.

408. Q. How long was Captain Tanaka on Truk then?
A. Approximately eight or nine months.

409. Q. How do you know that?
A. Because I really remember.

410. Q. When did you first see a white man?
A. On the day of the execution.

411. Q. Did you ever seen any white men that were not Americans?
A. No, only Japanese.

412. Q. Do you consider Japanese white men?
A. No.

413. Q. Then did you ever seen any white men that were not Americans?
A. Yes.

414. Q. What kind of white men were they?
A. They had red hair and white complexions and were taller than Japanese.

415. Q. What were these men?
A. Americans.

416. Q. Do you know if there are any other nationalities that are white other than Americans?
A. Yes.

417. Q. What are they?
A. I saw some white complexioned Japanese.

418. Q. How do you tell if a white man is an American then?
A. Because the uniforms they wore that day are similar to those of the enlisted personnel on Truk now.

419. Q. But did you not see these prisoners when they first came to Truk?
A. No, I did not see them.

420. Q. You do not know where they got these uniforms they were wearing on the day of the execution?
A. I do not know.

421. Q. Were the Japanese at war with any other white men?
A. I do not know.

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

The commission did not desire to examine this witness.

The witness stated that he had nothing further to say.

The witness was duly warned and withdrew.

The commission then, at 10:45 took a recess until 10:55 a.m., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

1. Q. State your name and rank?
A. Maurice E. Currie, Lieutenant Commander, U. S. Naval Reserve.

2. Q. To what activity are you presently attached?
A. Staff, Commander Marianas.

3. Q. What do your duties consist of?
A. War crimes investigator.

4. Q. Have you investigated war crimes at Truk?
A. Yes, I have.

5. Q. If you recognize the accused in this case will you please name them?

Each of the accused stood as he was pointed out and then resumed his seat.

A. Captain Masaharu Tanaka. Lieutenant Commander Tomeraku Danzaki. Lieutenant (junior grade) Yoshiharu Yoshimuma.

6. Q. Are you the legal custodian of an affidavit you wish to introduce as evidence in this case?
A. I am.

7. Q. Whose affidavit is this?
A. It is the affidavit of Lieutenant Commander Ishii, Yujiro, IJN.

8. Q. Can this witness be obtained to testify personally before this commission?
A. Lieutenant Commander Ishii is quite ill with tuberculosis. He was taken

1189

into custody in Japan for this trial and was hospitalized there. When he was brought to Guam it was found that he was too ill to testify. He was placed in the 103rd Hospital and he is still there. This trial was delayed in hope that he would be able to testify, but it appears as if he will not be well enough to do so.

9. Q. Do you have in your possession the signed statement of medical authorities concerning the condition of Lieutenant Commander Ishii?
A. I do.

10. Q. Will you please read the statement of the medical authority?

The witness read the statement of Lieutenant (junior grade) M.V. McClow, Medical Corps, U. S. Naval Reserve, copy appended marked "J".

11. Q. What is the date of this affidavit of Lieutenant Commander Iishi?
A. November 4, 1946.

12. Q. Was this affidavit signed by Lieutenant Commander Ishii in your presence?
A. It was.

13. Q. Will you explain to the commission how this affidavit was obtained?
A. Ishii was lying in his bed and I took an interpreter along to write down what he said. I asked him to explain in his own words what he knew about the incident involving the execution of Americans at the 41st Naval Guard Unit in February 1944. As he talked, the interpreter wrote it down in Japanese. It was rewritten at the time and reread to Ishii. Ishii took it and reread it himself. Then he signed it in my presence.

The affidavit of Lieutenant Commander Ishii, Yujiro, Imperial Japanese Navy, in Japanese and the English translation thereof, were submitted to the accused and to the commission, and by the judge advocate offered in evidence.

The accused objected to the admission of this document in evidence on the following ground: The accused object to this document as evidence because this evidence is the statement of Lieutenant Commander Ishii, who is by inference and is specifically named as an accomplice in Specification two of Charge III. Accordingly to Whartons Criminal Law, volume 2, paragraph 714 states: "Narratives of past events after the conspiracy is fully executed are to measures taken in the execution or furtherance of the common purpose inadmissible against conspirators. Confessions of co-conspirators and accomplices are also inadmissible against a co-conspirator or co-defendant on trial for the reason that a confession is necessarily made after the commission of the crime, and by its nature, it is not made in furtherance of the purpose of the conspiracy to commit such crime."

"If the declaration sought to be introduced..., or after the consummation of the purpose thereof, the objection to be made is that such declaration is a hearsay statement and not binding upon the co-conspirator on trial." Hill v. State 113 Crim Ref 85, 18 G.W. (2d) 1086. Wharton's Criminal Evidence Vol 2 par 699 p. 1188. "The co-defendant against whom

1190

the act or declaration is not admissible receives his protection from the court's admonition and it is reversible error for the court to fail to instruct the jury in this respect." State v Kirkland, 175 N.C. 770, 94 S.E. 725 Wharton's Criminal Evidence, Vol 2, par 701, p. 1190.

"One conspirator does not..., by its execution under his authority authorize his co-conspirator to make confessions or admissions of guilt for him, or to marrate past events." State v. Huckins, 212 Iowa, 283, 234 N.W. 554, Wharton's Criminal Evidence Vol 2 par 714, p. 1204.

The accused is guaranteed by the Sixth Amendment of the Constitution of the United States the right to be confronted with the witness against him. In C.M.O. 10-1927 the Judge Advocate General said: "The right of one accused of crime to be confronted with the witnesses against him is not a mere technicality or rule of procedure, but is a substantial right which with certain well recognized exceptions is guaranteed by the Sixth Amendment of the Constitution." Section 217 Naval Courts and Boards states: "An affidavit therefore is not admissible in evidence for the purpose of proving the subject matter with which the affidavit deals.

For these reasons we object to this document as evidence in this case.

The judge advocate replied.

The commission announced that the objection of the accused was not sustained.

The affidavit of Lieutenant Commander Ishii, Yujiro, Imperial Japanese Navy, in Japanese and the English translation thereof were received in evidence and are appended marked "Exhibit 1" and "Exhibit 2" respectively.

14. Q. I ask the witness to read the English translation of the statement of Lieutenant Commander Ishii.

The witness read the English translation of the statement of Ishii, Yujiro, Lieutenant Commander, Imperial Japanese Navy, appended marked "Exhibit 2".

An interpreter read the original statement in Japanese of Ishii, Yujiro, Lieutenant Commander, Imperial Japanese Navy, appended marked "Exhibit 1".

(Cross-examined by the accused).

15. Q. When did you first meet and become acquainted with Captain Tanaka?
A. In Sugamo Prison, Tokyo, some time early in 1946. I do not know the exact date.

16. Q. When did you first meet and become acquainted with Lieutenant Commander Danzaki?
A. At Truk Atoll in January, 1946.

17. Q. When did you first meet Yoshinuma?
A. In Sugamo Prison, early in 1946.

The commission then, at 11:22 a.m., took a recess until 2:05 p.m., at which time it reconvened.

1191

Present:

All the members, the judge advocate, the interpreters, each of the accused and his counsel.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Maurice E. Currie, Lieutenant Commander, U. S. Naval Reserve, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

Re-examined by the judge advocate:

18. Q. Are you the custodian of two other documents you desire to introduce into evidence?
A. I am.

19. Q. Who submitted these statements to you?
A. Captain Masaharu Tanaka, and Lieutenant Tomeroku Danzaki.

20. Q. Will you inform the commission under what circumstances these statements were submitted to you?
A. I asked these two persons to give me an accounting of what they knew of the execution of the Americans by the 41st Guard Unit in February 1944.

21. Q. Did they freely and voluntarily submit to you these statements?
A. I did not tell them what to write. I was not with them when they wrote it. They were in solitary confinement; as far as I know they freely and voluntarily wrote them.

22. Q. On what date were these statements submitted?
A. Both of them are dated September 11, 1946.

23. Q. Have you at a later date allowed each of these persons to verify their statements?
A. On October 25, 1946, the statements were resubmitted to Tanaka and Danzaki and they re-read them.

24. Q. Did they acknowledge these statements in your presence on October 25, 1946?
A. They re-read the originals in my presence and acknowledged them and stated that they were correct.

The statements of the accused, Captain Tanaka, Masaharu, Imperial Japanese Navy and Lieutenant Commander Danzaki, Tomeroku, Imperial Japanese Navy, in Japanese and the English transltation thereof, were submitted to the accused and to the commission, and by the judge advocate offered in evidence.

The accused objected to the admission of these documents on the following ground: Nowhere in these documents does it appear that the accused was ever accorded the rights of a defendant. Nowhere can we find

1192

that section 734(c), Naval Courts and Boards was ever complied with. The investigators knew full well that provisions of this section of Naval Courts and Boards and yet deliberately refrained from granting these persons the privileges of an interested party. This section 734(c), Naval Courts and Boards re-emphasizes an age old rule of law: " A person granted the privileges of an interested party... can not be required to incriminate himself". Why did the investigating officers require these persons, now the accused in this case, to incriminate themselves?

The prosecution knew full well this fundamental rule and yet they offer this document into evidence and ask that another rule further enunciated in this same section of Naval Courts and Boards be abrogated. This rule is that: "If the rights of a defendant be not accorded when they should be, the court of inquiry or investigation, so far as concerns the person denied his rights, will be held of no evidential effect." This is one of the most important rules to be observed.

Nowhere does it appear that section 734(b) was complied with. This section requires that if it should appear at any time that any person not named as a defendant becomes involved in such a way that an accusation against him may be implied, it is the duty of the court to inform such person that he is a defendant.

"In informing a person that he is a defendant, he shall be notified of the gist of the evidence that tends to implicate him and instructed that he will be accorded the rights of an accused before a court martial, namely, the right to be present, to have counsel, to challenge members, to introduce and cross-examine witnesses, to introduce new matter pertinent to the inquiry, to testify or declare in his own behalf at his own request, and to make a statement and argument. He has the right of any witness to refuse to answer incriminating or degrading questions". These documents are dated October 25, 1946, the same date that these two persons were served with the charges and specifications on this present case. This is certainly not in compliance with these fundamental rules of rights guaranteed by the Constitution of the United States.

None of these rights and privileges were ever explained to the accused. The admission of these documents into evidence will result in the accused being made to testify against himself. This is absolutely at variance with the Fifth and Sixth Amendments to the Constitution of the United States of America.

To admit these documents into evidence will be most prejudicial to the rights of the accused in this case.

We maintain that the Supreme Commander Allied Powers did not take away from this accused the Constitutional rights guaranteed by the Constitution of the United States not only to citizens but to every person brought to trial before any court of these United States.

For these reasons we object to these statements as evidence in this present case.

The judge advocate replied.

The commission was cleared.

1193

The commission was opened. All parties to the trial entered.

No witnesses not otherwise connected with the trial were present.

The commission stated as follows:

Before ruling on the objection raised by the defense to the admission of these statements, the commission would like to ask the witness one question.

Examined by the commission:

25. Q. Do you know whether or not the statements in question were presented to the accused for verification prior to the serving of the charges and specifications?
A. They were.

The commission announced that the objection of the accused was not sustained.

(Re-examination continued by the judge advocate).

The statement of Captain Tanaka, Masaharu, Imperial Japanese Navy, in Japanese and the English translation thereof were so received in evidence and are appended marked "Exhibit 3" and Exhibit 4", reppectively.

The statement of Lieutenant Commander Danzaki, Tomeroku, Imperial Japanese Navy, in Japanese and the English translation thereof, were so received in evidence and are appended marked, "Exhibit 5" and "Exhibit 6", respectively.

26. Q. I ask the witness to read the English translation of Captain Tanaka's statement.

The witness read the English translation of the statement of Captain Tanaka, Masaharu, Imperial Japanese Navy, copy appended marked "Exhibit 4".

An interpreter read the original statement in Japanese of Captain Tanaka, Masaharu, Imperial Japanese Navy, appended marked "Exhibit 3".

27. Q. I ask the witness to read the English translation of Lieutenant Commander Danzaki's statement.

The witness read the English translation of the statement of Lieutenant Commander Danzaki, Tomeroku, Imperial Japanese Navy, copy appended marked "Exhibit 6".

An interpreter read the original statement in Japanese of Lieutenant Commander Danzaki, Tomeroku, Imperial Japanese Navy, appended marked "Exhibit 5".

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

The witness said that he had nothing further to state.

1194

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. Wakabayashi, Seisaku.

2. Q. What is your former rank?
A. Vice Admiral in the Navy.

3. Q. Were you ever stationed on Truk?
A. From the 24th of July 1943, to the 22nd of February 1944.

4. Q. In what capacity were you stationed at Truk?
A. I was the commanding officer of the 4th Naval Base Force.

5. Q. Admiral, what units composed the 4th Naval Base Force under your command?
A. The 41st Naval Guard Unit; the Mine Sweeper Unit; Anti-Submarine Unit; and the Communication Corps; that is all.

6. Q. Who was your chief of staff?
A. At that time Commander Higuchi, Nobuo, presently Captain.

7. Q. Admiral, it has come to the attention of this commission that seven Americans were executed on Truk on February 17, 1944 by the 41st Naval Guard Unit, do you know of this event at this time?
A. From the eighth of January 1944 I was stricken with ulcers of the stomach, and my doctor, Captain Iwanami of the 4th Hospital, ordered absolute quiet for me and did not allow me to meet anyone; because of this I know nothing concerning the prisoners during that time.

8. Q. Insofar as you know, do you know of anything that took place to justify the execution of any prisoners at this time?
A. As I was sick in bed I know nothing about the prisoners and I was sent back to Japan on a hospital ship just as I was. I gave no orders concerning the prisoners.

9. Q. It is correct then, Admiral, that insofar as you know there was no justification for any execution?

The accused objected to this question on the ground that the prosecution has not shown that the witness knew anything about the executions.

The judge advocate replied.

The commission announced that the objection of the accused was not sustained.

The question was repeated.

A. As I know nothing about this, I could do nothing; I did not know anything about this and if I did know something about this I could have done nothing.

1195

10. Q. Insofar as you know were you ever informed of a trial given to prisoners of war at this time?
A. I was not.

11. Q. You have testified that the 41st Naval Guard Unit was under your command, can you recall who was the commanding officer of the 41st Naval Guard Unit in February 1944?
A. Captain Tanaka, Masaharu.

12. Q. Admiral, do you see Captain Tanaka in court today?
A. I do.

13. Q. Will you please point him out?

The accused, Captain Tanaka, stood when pointed out and resumed his seat.

A. He is the first person in that row.

14. Q. Do you know either of the other two accused in this case?

The accused Lieutenant Commander Danzaki and Lieutenant Yoshinuma stood when pointed out and then resumed their seats.

A. I do. Lieutenant Commander Danzaki and Ensign Yoshinuma.

15. Q. Admiral, do you know to what units these last two men were attached in February 1944?
A. I believe that they were attached to the 41st Naval Guard Unit.

Cross-examined by the accused:

16. Q. Was there a higher headquarters than the 4th Base Headquarters at Truk?
A. The Commander-in-Chief of the 4th Fleet had his headquarters at Truk close to mine.

17. Q. How is the command of the 4th Base Force and the 41st Naval Guard Unit connected?
A. At the very top is the 4th Fleet, next comes the 4th Base Force, below this comes the 41st Naval Guard Unit.

18. Q. How are orders asked of higher headquarters from the 41st Naval Guard Unit concerning operations and other important details?
A. It is usually from the 41st Naval Guard Unit, to the 4th Base Headquarters; from the 4th Base Headquarters to the 4th Fleet Headquarters.

19. Q. How was it determined at Truk to handle prisoners?
A. The policy that was put out from the Commander-in-Chief of the 4th Fleet was; at Truk there was no stockade for prisoners of war, so the 41st Naval Guard Unit was to have temporary custody of them and while at Truk they were not to be questioned or investigated, therefore, send them back to Japan in the first available shipping or by plane.

1196

20. Q. After the 41st Naval Guard Unit took custody of the prisoners did they have authority to dispose of them, or did they have to ask of higher command?
A. Other than this policy I just mentioned before, no further orders were put out by the 4th Fleet, therefore no orders came out of my headquarters. As long as the commanding officer of the 41st Naval Guard Unit took the prisoners into custody, it was natural that he hold responsibility for them. As the commanding officer of the 41st Naval Guard Unit was a person who graduated from the Naval Academy, he should be familiar with the handling of prisoners of war. Therefore, there was no need to give further information concerning this. Due to the air raids on February 17th and 18th it is natural that the commanding officer who had some prisoners in his custody would feel very disturbed as to what to do with them. On other parts of the island there was houses burning, oil tanks were burning and there were planes fighting in the sky and as the circumstances were like that the commanding officer would not have to ask the higher command for every small detail about what to do.

21. Q. Suppose the commanding officer considered the disposal of the prisoners a very important step and had asked orders of the higher command, would the orders, with permission, have been given regularly?
A. During my period there as commanding officer I have always told my subordinate officers, especially my staff officers, that they should always receive instructions from their higher command concerning prisoners. To do this independently would be involving the command of the Commander-in-Chief of the 4th Fleet. Advice on such points could not be given unless instructions were received from the higher headquarters. Truk is very unusually situated in which there are great many units which are independent of the 4th Base Force and are attached directly to the 4th Fleet. In addition to this there are four units which were attached to the Combined Fleet. Concerning operations, there are times when some of those units belong to the 4th Fleet Command and not my command. At times it was necessary to command some of these units in matters concerning other than operations. In the usual circumstances it is natural that the Commander-in-Chief of the 4th Fleet, and the Commander-in-Chief of the Combined Fleet Headquarters came together in a conference to agree upon this. But while I was at Truk, we did not have a direct solution to this command situation, and while at Truk, because of the many conflicting commands I was very strict concerning receiving instructions from the higher authority and was very strict concerning this with my staff officers.

22. Q. If the 41st Naval Guard Unit had asked permission or other instructions from the 4th Fleet and if there was an answer, would the 4th Fleet send out its orders through your command or would it send its orders direct to the 41st Naval Guard Unit?
A. In any case it usually goes through all of the commands, but in case of an emergency or where great speed is necessary the 4th Fleet would send its orders direct to the 41st Naval Guard Unit and send the dispatch as information to the 4th Base Force. Concerning important matters, I do not believe they would all go through command.

1197

23. Q. In the Japanese Navy are the matters concerning prisoners considered important?
A. It is considered an important matter, especially in that it relates to complex matters. During my period at Truk I was very strict about this.

24. Q. Where was the 4th Base Force located at Truk?
A. It is on Dublon, on a hill. Nearby is the 4th Hospital. The 4th Hospital and the 4th Base Force are located on the same hill.

25. Q. What is the distance from the 4th Base Force to the 41st Naval Guard Unit?
A. I think it is about two miles.

26. Q. Is there a telephone line running from the 4th Base Force to the 41st Naval Guard Unit?
A. Yes, there is, it goes through a switch board.

27. Q. How were the rooms situated in the 4th Base Headquarters?
A. It is divided into the administartion building; quarters for the commanding officer and his staff; the quarters for the officers of the second Convoy Squadron Unit; and the quarters of the enlisted men. Also the headquarters of the Air Fleet and the Headquarters of the Third Battle Squadron were situated there.

28. Q. What was the number of the personnel a t the headquarters?
A. Excluding the commanding officer there are six people on the staff, also the enlisted men attached to the headquarters.

29. Q. Where were you on February 17, 1944?
A. As I said before, at that time I was sick with stomach ulcers and for my sick room I was using the commanding officers' room.

30. Q. What was the distance from the room of the commanding officer and the headquarters?
A. It is connected by a corridor and the distance was about 30 meters.

31. Q. During an air raid where did you take shelter?
A. I was carried on a stretcher to an air raid shelter by the side of the headquarters building.

The witness was duly warned.

The commission then, at 4:30 p.m., adjourned until 9:00 a.m., Friday, November 8, 1946.

1198

FOURTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Friday, November 22, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocate.
Vivian Kilner, civilian, reporter.

Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

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

Wakabayashi, Seisaku, Vice Admiral, Imperial Japanese Navy, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

32. Q. What was your rank on February 1944?
A. I was vice admiral, Imperial Japanese Navy.

33. Q. When were you made a vice admiral?
A. On the first of May, 1943.

34. Q. Are you a believer and a follower of the teachings of Buddha?
A. Yes.

35. Q. When did you arrive on Truk?
A. On the 24th of July 1943.

36. Q. When did you leave Truk?
A. I was relieved of my command on 22 February, 1944 and on the 26th of February I left Truk on a hospital ship for Japan.

37. Q. Who relieved you as commanding officer of the 4th Naval Base Force?
A. Rear Admiral Arima Kaoru.

38. Q. Was the 41st Guard Unit a subordinate unit of your command?
A. Yes.

1199

39. Q. What was the extent of the responsibility of the commanding officer of the 41st Naval Guard Unit?
A. The main duty is command of all of the gun batteries on Truk Atoll, mine sweeping operations, laying of mines, sea mines and land mines, and the defense of Truk Atoll.

40. Q. When did Captain Tanaka take command of the 41st Guard Unit?
A. I think it was on the 27th of December 1943.

41. Q. Did he report to you when he took command of this guard unit?
A. I think he came to pay his respects upon taking up his duties there.

42. Q. When was Captain Tanaka detached and relieved as commanding officer of the 41st Guard Unit?
A. This I looked up later, but I think it was on the 20th of February 1944.

43. Q. Was he relieved on your recommendation?
A. No.

44. Q. Why was Captain Tanaka detached from his command?
A. I don't know this for sure, but I think it may have been because Captain Tanaka graduated in the same class as Admiral Koga who was Commander in Chief of the Combined Fleet. When Captain Tanaka arrived to take up his duties, he was a person who had been retired from the active list for a good many years. Also, he was very old. During that period the person in charge of naval personnel came to Truk and I believe Admiral Koga talked to him about this and said that Tanaka is so old he may not be able to perform as commanding officer of the 41st Guard Unit. This may have been the cause of him being relieved of his duties.

45. Q. Did anyone ever talk to you about the manner and performance of duty of Captain Tanaka prior to this time?
A. Just after Captain Tanaka came to take up his duties, I became ill and during my illness I was not allowed to have any visitors. Therefore, I did not hear anything about him.

46. Q. Were you satisfied with his performance of duty as commanding officer of the 41st Guard Unit?
A. As his period was so short and as he was a very old person, I thought it may have been a little difficult for him to carry on his duties.

47. Q. Who relieved Captain Tanaka?
A. It was Rear Admiral Asono who was at that time at Truk in charge of the replacement of personnel, attached directly to the Commander in Chief.

48. Q. Did he report to you?
A. I believe when I was sick, around the 22nd of February, both of them came and paid their respects to me.

49. Q. Was this on the 20th of February?
A. Yes, I think it was on the 20th.

50. Q. Did you have control over the commanding officers of all your subordinate units?
A. Except for the communication corps which sometimes deals directly with the Commander in Chief, all the other unit commanders came under my command.

51. Q. Was Captain Tanaka responsible to you for his performance of duty?
A. Yes.

52. Q. Ordinarily how were headquarters orders passed to subordinate units?
A. They are usually relayed by telephone order or an orders that goes in the form of a signal or orders that are sent up in documents. Telephone orders which are important are later printed on paper and distributed.

53. Q. It was usual to issue orders over the telephone from your headquarters then?
A. I think they were using the telephone a good deal.

54. Q. What did you do when your orders from headquarters were not carried out by subordinate units?
A. In case the telephone was not in order and I needed to relay an order I would dispatch a staff officer to see they got the word.

55. Q. Did they ever fail to carry out your orders?
A. While I was there as commanding officer, I have experienced no such thing.

56. Q. When did the commanding officer of the Fourth Fleet move his headquarters ashore?
A. I think it was in the middle of December, 1943.

57. Q. Were you the island commander from the 24th of July until the commanding officer of the 4th Fleet moved his headquarters ashore?
A. Whether his headquarters was on board ship at Truk or on land at Truk, as long as the flag of the Commander in Chief of the Fourth Fleet was up, he was the supreme commander of Truk Atoll.

58. Q. In case there had been an invasion of Truk in 1943 would you have been in command of Truk?
A. At that time the Commander in Chief of the 4th Fleet was at Truk and he would have taken command generally, but on land I would have taken command of the units attached to the 4th Fleet in operations.

59. Q. Did the Commander in Chief of the 4th Fleet relieve you of any of your responsibilities when he moved his flag ashore in 1943?
A. Whether the headquarters are on a ship or on land it makes no difference.

60. Q. When he moved his headquarters ashore, did you continue to be responsible for all the things you were responsible for prior to that time?
A. Yes, the division of command is carefully defined and operations come under my command.

61. Q. Did you order the 41st Guard Unit to have custody of these prisoners of war?
A. I did not.

62. Q. Who did?
A. I did not know there were any prisoners.

1201

63. Q. When did these seven prisoners arrive on Truk?
A. Other than that one incident in the middle of November 1942, when 41 or 42 members of an American submarine were placed in the 41st Guard Unit by the 4th Fleet, I know of no other prisoners. I have had reported to me that the prisoners from this submarine were sent back to Japan in the middle of December on an aircraft carrier. Of the seven, I do not know where they came from or why they were held there.

64. Q. Since you did not know there were seven prisoners of war on Truk, is it your opinion they were captured that day during the air raid?
A. As I was sick at that time and I was supposed to meet no one, I do not know and I know nothing about this.

65. Q. Did your headquarters receive arrival reports of all ships that stopped on Truk?
A. The reports were supposed to come, but there is a department called the transportation department which handles all ships coming in from the front lines and from Japan and going out. This unit is attached directly to the 4th Fleet and all reports will go directly to the 4th Fleet.

66. Q. If a ship had stopped to leave prisoners of war on Truk and these prisoners of war had been ordered into the custody of one of your subordinate units, ordinarily, would you not have been notified as the headquarters commander?
A. They should have reported it.

67. Q. Did the 4th Base Headquarters have an organization for the care and custody of prisoners of war?
A. As I have testified before, at Truk there were no facilities to take care of prisoners and they even have used parts of barracks to take care of prisoners.

68. Q. Did the 41st Naval Guard Unit have an organization to take care of these prisoners?
A. I have heard that it was being carried out under the direction of the commanding officer of the 41st Guard Unit.

69. Q. Then you did hear there were prisoners of war on Truk?
A. As I testified before the prisoners were to be held in custody for the 4th Fleet until they were sent to Japan. It was reported to me from the commanding officer of the 41st Guard Unit that they would use parts of barracks to hold them.

70. Q. Do you feel the commanding officer of the 4th Fleet relieved you of the custody of prisoners of war on Truk?
A. I believe it placed the 41st Guard Unit in a very difficult position to handle prisoners of war for the 4th Fleet. As handling prisoners was not one of their regular duties, I believe the 4th Fleet should have established an independent organization to handle prisoners of war. To have the 41st Guard Unit hold them in custody temporarily would bring about many difficulties. But at that time as the 4th Fleet was stressing the defense of Truk, they did not get around to doing this.

71. Q. Since the 41st Guard Unit was one of your subordinate units and you felt that way about their inability to handle the prisoners of war, did you discuss this matter with the commanding officer of the 4th Fleet?

1202

A. This I have spoken on a little previously. Like I said yesterday, I have units directly under my command and there are some units which are attached to the 4th Fleet, but which come under my command in time of emergency. I asked the Commander in Chief of the 4th Fleet to be able to command such units, such as the construction units, which I could command and have them do work and whatever was necessary to be done. I explained my opinion on this, but this was not granted me. After I left Truk, through my recommendations it has become available to do this at Truk.

72. Q. Did you ever discuss prisoners of war with the Commander in Chief of the 4th Fleet?
A. I have never talked with him.

73. Q. How about the Commander in Chief of the 4th Fleet be able to know about the inability to handle the custody of prisoners of war unless you told him about it?
A. Before the 4th Fleet Headquarters moved ashore in December 1943, the Commander in Chief of the 4th Fleet went on a ship to various places and I expressed my opinion that if he could give me command during his absence I could do many things. Concerning the prisoners, there is a policy of the 4th Fleet about this which the 41st Guard Unit could go by. When I arrived at Truk to take up my duties, every facility to Truk was not satisfactory. I concentrated all my efforts in having these facilities built up. After I arrived there, all the air raid shelters and present facilities were built up. I was even called "The Deck Officer of Truk". The handling of prisoners and the taking care of them at the 41st Guard Unit was not too good, but it could be made to take care of them temporarily.

74. Q. Did you ever issue any instructions to the commanding officer of the 41st Guard Unit concerning prisoners while they were in his custody?
A. As the commanding officer of the 41st Guard Unit was a graduate of the Naval Academy he should be very well acquainted with laws of war and if he kept this in mind and did as it was written there, I thought there would be no need for me to duplicate this. Because of this I set out no orders concerning this. In case there were some reports concerning prisoners to me, if they were parts in which a change was needed, I would caution them to do so.

75. Q. Did you ever do so?
A. I have.

76. Q. Will you explain when and how you cautioned them?
A. When I received a report from the former commanding officer, Captain Minematsu, it was the first time I had received a report concerning prisoners and this was concerning the prisoners of a submarine who were captured in the middle of November, 1943.

77. Q. Since you were not satisfied with the conditions in the 41st Guard Unit regarding the facilities they had for caring for prisoners of war, why did you not do something about it?
A. They were using a part of the barracks of the enlisted men. As for the guard unit, they were doing the best they could.

1203

78. Q. Then you were satisfied with the way they handled prisoners at the 41st Guard Unit?
A. During my time of duty there I redeived no reports that if conditions continued it would be very difficult.

79. Q. Since you were a very senior vice admiral, could you avoid responsibility for prisoners of war by simply closing your eyes to what was happening at the 41st Guard Unit?
A. The expression closing my eyes sounds very funny to me. My work was not only concerned with looking after prisoners. I was in charge of all the various operations on Truk, on the land and sometimes at sea. In any time that I received a report when caution was needed, I cautioned them. I seriously believe that I performed my duties.

80. Q. What was the distance between your headquarters and the 41st Guard Unit?
A. I think, like I said yesterday, about 2 miles.

81. Q. Did you ever visit and inspect the 41st Guard Unit?
A. I have inspected there many times, but when I inspected there, there were no prisoners there.

82. Q. Did you inspect there any time during the year 1944?
A. I have not inspected the 41st Guard Unit in 1944 because I became ill at the beginning of January and was sent back on a hospital ship.

83. Q. Then you did not inspect there at any time when Captain Tanaka was commanding officer?
A. No.

84. Q. Did anybody from your headquarters inspect while Captain Tanaka was the commanding officer of the 41st Guard Unit?
A. I think some of my staff officers may have gone concerning their work to the 41st Guard Unit many times. As my senior medical officer and the officer in charge of the paymaster section were also attached to the 41st Guard Unit, they may have gone to and from the guard unit many times.

85. Q. None of them ever reported to you there were prisoners of war in the custody of the 41st Guard Unit?
A. I have heard nothing about this.

86. Q. If there had been prisoners of war and you had not heard about it would you believe they were trying to keep it a secret from you?
A. As I said before, my illness required absolute quiet and no visitors were allowed me. Some of the people on my staff may have known about this, but they never told me.

The commission then, at 10:10 a.m. took a recess until 10:32 a.m., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

Wakabayashi, Seisaku, Vice Admiral, Imperial Japanese Navy, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

87. Q. What method of communication was there between your headquarters and the commanding officer of the 41st Guard Unit?
A. There was no means of communication other than the telephone.

88. Q. Was this a direct telephone line between the two headquarters?
A. It was not a direct line, it went through a switchboard.

89. Q. Where was the switchboard located?
A. I heard that it was located in the former headquarters of the construction corps.

90. Q. Was this means of communication adequate for all operations purposes? E17
A. Other than this there was a telephone line used for command conditions.

91. Q. Don't you know if this was adequate?
A. As it was a command line, it was not only connected with the 41st Guard Unit, but with all the other units. I don't know whether the 41st Guard Unit could be talked to with it without the other units hearing.

92. Q. Was this connected with the headquarters of the 4th Fleet?
A. It was not connected with the 4th Fleet. The telephone came from the 4th Fleet and then it went into the command line.

93. Q. Did you ever use this command line?
A. It was used for operations.

94. Q. Did you ever use it yourself?
A. I have never used it directly.

95. Q. Who did use it to pass your orders?
A. This was conducted under the control of the Senior Staff Officer.

96. Q. You delegated the Senior Staff Officer to pass on your orders to subordinate units?
A. Any reports on operations which the other Staff Officers made up went through the Senior Staff Officer to me for approval and any orders going out from myself would go to the Senior Staff Officer. Any orders coming from the commanding officer would never go out without going through the Staff.

97. Q. All orders that were passed over this command line were orders for which you were responsible however?
A. Other than very important orders this line is not used.

98. Q. None of your staff officers can however assume the responsibility which you had as commanding officer, can they?
A. Yes, that is right.

1205

99. Q. Was this communication system, this telephone line, in working order on February 19, 1944?
A. As I have said, I think the line was all right at that time. I have heard no report that it was not.

100. Q. On the day of the air raid, February 17, 1944, were you in this operations room at any time?
A. I was not in the operations room, but I was in an air raid shelter, in which we placed a bed temporarily and I stayed there.

101. Q. Was this air raid shelter the command post then?
A. No, it was not.

102. Q. Was there any means of communications with the other units from this air raid shelter?
A. No, at that time, it was not finished.

103. Q. When the air raid commended on February 17, what time was it?
A. I don't remember exactly, but I think it started in the morning.

104. Q. Did you not get an official report as to the air raid?
A. I found out by the air alarm.

105. Q. What did you do when you found out there was an air raid?
A. The doctor and the nurse made preparations to move me to the air raid shelter.

106. Q. Was this the command post of the 4th Base Headquarters during an air raid?
A. From the high point nearby there was a half completed command post and I believe this was used, and that the staff officer went up and down this hill.

107. Q. How far from the headquarters was this command post?
A. I think it was about a hundred meters.

108. Q. During the air raid were you and your high staff officers who had left your headquarters cut off from communication with all your subordinate units?
A. There should have been telephone communications from the half completed command post and the former headquarters. The command post on the hill was considered a battle command post, and where there was no air raids the staff officers came down from it.

109. Q. And that was your command post in case of an air raid, was it?
A. If I had not been ill, that is where I would have been.

110. Q. Did your immediate superior in command, the commanding officer of the 4th Fleet know that you did not go to this command post during the emergency when the air raid was on?
A. That I was ill and could not be at my post, the commanding officer knew very well. The Commander in Chief sent his chief of staff to my place and told me that to be in your condition now is very bad. I shall ask for a person to relieve you.

1206

111. Q. When did he come to you and say that?
A. It was a short time after I became ill, I think it was around the middle of January.

112. Q. Did he relieve you of your command?
A. It was just as it was.

113. Q. Was this February attack a surprise attack and not expected?
A. After this attack I doubt if the Commander in Chief took any steps. As for myself I had heard that person was going to replace me and I took my steps in that direction.

114. Q. So that on February 17, you were still the commanding officer of the 4th Base Headquarters?
A. Yes.

115. Q. Were you in the operations room at any time on February 17, 1944?
A. I was not in condition to do so.

116. Q. Were you in the operations room at any time?
A. I saw the operations room being built and after I left, I did know it had been completed.

117. Q. When you were at Truk, did you have a room that was called the operations room?
A. At the commanding officer's room there was a small barracks type building which was used as my office.

118. Q. Is this where the telephone lines for the 41st Guard Unit came in?
A. It was not. NExt to the staff officer's room there was a telephone room.

119. Q. Were you in this telephone romm on February 17, 1944?
A. As I said before, I was in no condition to do so.

The accused objected to this answer on the ground that the answer of the witness is not responsive and requested the commission to instruct the witness to answer the question directly.

The commission directed the accused to ask the question again and directed the witness to answer the question directly.

120. Q. Were you in this telephone room on February 17th at any time?
A. I was not.

121. Q. Who was the next in rank to you on Truk?
A. It was the person subordinate to myself.

122. Q. Who was this next senior to you in rank?
A. Captain Miura who was at that time the Port Director. At present he is a Rear Admiral.

123. Q. Did you report the execution of these seven American prisoners of war to the Commander in Chief of the 4th Fleet, your immediate superior in command?
A. As it was something I knew nothing about, I did not report it.

1207

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

The commission did not desire to examine this witness.

The witness made the following statement.

Such an incident occurring while I was sick. When I was brought down from Japan in May of this year and questioned, I found out for the first time and I was very surprised. Because of my responsibility, I have no way of saying this, but I know nothing concerning this matter.

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. Higuchi Nobuo.

2. Q. What was your former rank?
A. Commander.

3. Q. Commander in what organization?
A. The Navy.

4. Q. Were you ever stationed on Truk?
A. I have been.

5. Q. To what activity were you attached while stationed on Truk?
A. From February 1943 to April 1944 I was attached to the Headquarters, 4th Base Force. From April to the end of the year I was attached to the 4th Fleet.

6. Q. While attached to the 4th Base Force who was your commanding officer?
A. Vice Admiral Seisaku Wakabayashi.

7. Q. In what capacity did you serve at the 4th Base Force?
A. I was a Staff Officer.

8. Q. Were you the Senior Staff Officer?
A. Prior to October of 1943 I was next in seniority. After that I was the Senior Staff Officer.

9. Q. It is correct then that in February 1944 you were the Senior Staff Officer of the 4th Base Force?
A. Yes.

10. Q. Evidence has been presented before this commission to the effect that in February 1944 seven American prisoners of war were executed by the 41st Naval Guard Unit at Truk, at that time did you know anything about that event?
A. I do not know about it.

11. Q. Did you hear of any misconduct on the part of prisoners of war at that time?
A. I have heard nothing about it.

12. Q. Insofar as you know, as the senior staff officer of the 4th Base Force, was there anything that took place that justified the execution of American prisoners of war at this time?
A. I think there was no reason.

13. Q. Insofar as you know, as the senior staff officer of the 4th Base Force, was any trial given prisoners of war at this time?
A. No, there was no trial.

14. Q. What units were under the command of the 4th Base Force?
A. The 41st Naval Guard Unit, the 902nd Air Squadron, the 4th Communication Corps, the 4th Harbor Division and the Seagoing Units.

15. Q. In February 1944, do you know who was the commanding officer of the 41st Guard Unit?
A. I do.

16. Q. What was his name?
A. Tanaka.

17. Q. Do you see that person in court today?
A. I do.

18. Q. Will you please point him out?

The accused Tanaka, stood as he was pointed out and then resumed his seat.

A. The person in the first ~~ter~~ seat.

19. Q. Do you know the name of the other two accused in this case?
A. I do.

20. Q. Will you please name them and point them out?

Each of the accused stood as he was pointed out and resumed his seat.

A. Danzaki, Ensign Yoshinuma.

21. Q. Do you know to what organization the accused Danzaki and Ensign Yoshinuma were attached in February 1944?
A. The 41st Naval Guard Unit.

Cross examined by the accused:

22. Q. Where was the 41st Naval Guard Unit located at Truk?
A. At Dublon.

23. Q. Where was the 4th Base Headquarters?
A. At the same Dublon.

24. Q. What was the distance between them?
A. I think it was 4,000 to 5,000 meters.

25. Q. How was liaison conducted between these two units?
A. It was by telephone line.

1209

26. Q. Were there other means of communication other than by telephone?
A. There were communications by messengers.

27. Q. Was telephone communication on the 17th of February in good order?
A. I do not understand the question well.

28. Q. On February 17th, the day of the air raid, were the telephone lines in good condition?
A. I do not know if they were good, but I think communications could be gotten ~~going~~ through.

29. Q. On what time did the air raid on February 17th start?
A. I think it was about 5:40 a.m. in the morning.

30. Q. Where were you at that time?
A. I was in the staff room.

31. Q. Where is the staff room located?
A. In the administration building of the headquarters.

32. Q. What is the distance from the telephone room and the staff officer's room?
A. It is next door, about five meters distance.

33. Q. Was there an extension from the telephone room to the staff room?
A. There was.

34. Q. Was that telephone near your desk?
A. Yes.

35. Q. How many other persons were there besides yourself in the staff room?
A. There were two other staff officers.

36. Q. Please describe the air raid to the commission at that time?
A. About 4:40 in the morning, we had a report from the radar at Uman Island reporting that American planes were coming and as I was in the staff room at this time, I received the report. As soon as I received this report, I sent out an air alarm and reported this to the commanding officer. There were continuous waves from sunrise to sunset of 100 to 150 planes. I think the main targets were the airfields at Eten and Moen Islands and the ships in the water. The attack on Dublon was mainly on the communications station and the fuel tanks. That is all.

37. Q. Until what time in the evening did the air raids continue?
A. They continued until sunset.

38. Q. During that time you, as senior staff officer, were doing what work?
A. I was not in the staff room.

39. Q. Where were you?
A. I was on top of the hill back of the headquarters or down at the air raid shelter at the bottom of the hill.

40. Q. Were both of these command posts?
A. There was no regular command posts.

41. Q. Were there any means of communications such as telephones between these two places.
A. There were none.

42. Q. If you were asked for instructions or directions from below, how would you go about it?
A. The person who received the telephone call would report it to me and then to the commanding officer and the commanding officer would send out an order.

43. Q. When you were not in the staff officer's room who remains there?
A. There was no particular person.

44. Q. Wasn't there supposed to be a person there?
A. There is no such rule.

45. Q. Is there such a thing as nobody being there?
A. During an air raid, yes.

46. Q. In such a case how would you get in touch with each other?
A. A messenger would come.

47. Q. Who was the telephone operator?
A. A signal man would do so.

48. Q. Where was the commanding officer at that time?
A. In a concrete air raid shelter by the side of the headquarters building.

49. Q. How did he get in and out?
A. He walked.

50. Q. Wasn't he on a stretcher?
A. I don't think he was on a stretcher.

51. Q. In the night after the air raid did any people come to headquarters?
A. I don't think they came.

52. Q. Was there a conference concerning operations that night?
A. There was none.

53. Q. Where were you that night?
A. I was at the 4th Base Headquarters.

54. Q. Where was your room?
A. I was in my private quarters or in the staff room.

55. Q. Was there not an operations conference and all the unit commanders of the units attached to the 4th Base Force there?
A. I do not remember anything of that nature.

The commission then, at 11:25 a.m. took a recess until 2:10 p.m., at which time it reconvened.

Present:

All the members, the judge advocate, the interpreters, each of the accused and his counsel.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Higuchi, Nobuo, Captain, Imperial Japanese Navy, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

56. Q. What duties do you have as senior staff officer of the 4th Base Force?
A. It is in an advisory capacity to the commander of the 4th Base Force.

57. Q. Is there anything else other than this?
A. No.

58. Q. Do you advise the commanding officer in all matters?
A. Yes.

59. Q. Have you ever seen an American prisoner?
A. Yes.

60. Q. When was this?
A. I think it was in November of 1943, when an American submarine was sunk by a Japanese destroyer and the prisoners were brought to Truk.

61. Q. How many prisoners were there?
A. I think it was forty-one.

62. Q. Have you seen any prisoners after that?
A. I saw a prisoners in April or May of 1944.

63. Q. How many prisoners were there?
A. One.

64. Q. Is it a rule in the Japanese forces to execute prisoners when an invasion is forseen?
A. No.

65. Q. Was there an air raid on February 17, 1944 at Truk?
A. Yes.

66. Q. Was this the first air raid on Truk?
A. Yes.

67. Q. Did this air raid continue the next day?
A. Yes.

68. Q. What were the losses in Japanese shipping in that day?
A. I think it was around forty.

1212

69. Q. What was the number of casualties wounded and killed?
A. I do not remember.

70. Q. Can you remember an approximate number?
A. I can not guess.

71. Q. Is it in the hundreds or thousands?
A. I think it was in the thousands.

72. Q. Did you send out an order to disperse the ships?
A. There was no order put out.

73. Q. Was it generally judged that the enemy would land that day?
A. I think it was not expected.

74. Q. Wasn't this report circulating among the personnel?
A. There were rumours circulating.

75. Q. When did you first become acquainted with Danzaki?
A. I do not remember exactly, but it was after my arrival at Truk.

76. Q. When was this?
A. I do not remember the month, but it was in 1943.

77. Q. When did you become acquainted with Yoshinuma?
A. I became acquainted with him at Guam.

78. Q. Did you become acquainted with him when you came to Guam?
A. Yes.

79. Q. Did you know Yoshinuma at Truk?
A. No.

80. Q. Was a record kept of all telephone messages that were sent and received on the two days of the air raids?
A. I think that there was a record, but I do not remember.

81. Q. Isn't there a rule that a record be kept of all messages concerning important circumstances like that?
A. There is such a rule.

82. Q. What happened to the records that were made and kept at Truk?
A. I do not remember.

83. Q. Who was the commanding officer to whom you reported the air raid?
A. The commanding officer of the 4th Naval Base.

84. Q. Where was he at that time?
A. He was in his private room.

85. Q. Did you keep him informed of conditions throughout the day?
A. I do not grasp the meaning of the question.

86. Q. Did you keep the commanding officer informed of all conditions during the days of the air raids so that he knew what was going on?
A. Yes.

1213

87. Q. How many times did you go to the air raid shelter during that day?
A. I do not remember, but I went many times.

88. Q. You testified that the commanding officer would send out orders. Did he send out any orders during the days of February 17 and February 18, the two days that you had these air raids?
A. I would like to have the question repeated.

89. Q. You testified that the commanding officer would send out orders. Did he send out any orders during the time of February 17 and February 18?
A. Yes.

90. Q. Did Captain Tanaka come to the 4th Base Headquarters the evening of the first day of the air raid?
A. I do not think he came.

91. Q. The second day of the air raid?
A. I do not think he came then either.

92. Q. Did Captain Tanaka report to you that the 41st Naval Guard Unit carried out the orders of the Base Headquarters and had executed the prisoners of war?
A. No.

93. Q. Was Captain Tanaka ever reprimanded or punished for the execution of the prisoners of war on Truk?
A. No.

94. Q. When did you first learn of the execution of these prisoners of war?
A. I do not remember exactly, but it was some time after I heard it through rumors.

95. Q. Did you hear it from other staff members of the Base Headquarters command?
A. No.

96. Q. Do you remember from whom you did hear it?
A. I do not remember.

97. Q. Was it many weeks after the execution?
A. It was not a short period as that.

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

The commission did not desire to examine this witness.

The witness said he had nothing further to state.

The witness was duly warned and withdrew.

The prosecution rested.

The accused, at 2:25 p.m., requested an adjournment until 9:00 a.m., Tuesday, November 12, 1946, to complete the preparation of their defense.

The commission announced that the request of the accused was granted.

The commission then, at 2:25 p.m., adjourned until 9:00 a.m., Tuesday, November 12, 1946.

FIFTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Tuesday, November 12, 1946.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocate.
Vivian Kilner, civilian, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

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

The defense began.

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

Examined by the judge advocate:

1. Q. Are you Tanaka, Masaharu, Captain, Imperial Japanese Navy, an accused in this case?
A. Yes.

Examined by the accused:

2. Q. Have you ever had any duties at Truk?
A. I was at Truk from the 27th of December 1943 until the 6th of March, 1944.

3. Q. To what unit were you attached?
A. I was commanding officer of the 41st Guard Unit at Truk from the 27th of December until the 20th of February 1944. From the 21st of February 1944 to the 5th of March 1944 I was attached to the 4th Base Headquarters.

4. Q. What were your duties as commanding officer of the 41st Guard Unit?
A. I was directly under the 4th Base Force and my duties were the defense of Truk, and at that time my direct superior officers were Admiral Wakabayashi of the 4th Base Force and Admiral Kobayashi of the 4th Fleet.

5. Q. What was the organization of the 41st Guard Unit?
A. I had 16 gun batteries under my command, 4 anti aircraft batteries and the area in which mines were laid and the defense of the whole of Truk. There was a communication facility and my personnel were the executive officer,

Lieutenant Commander Nakase, the officer for internal affairs, Lieutenant Commander Ishii, and head of the sea patrol unit, Lieutenant Danzaki. I had about 800 men. Most of them were dispersed to the various gun batteries. At my headquarters were about 120 or 130 men with which the patrolling of the neighborhood of headquarters was done.

6. Q. When did you see a prisoner at Truk?
A. In the beginning of January 1944 some prisoners were placed in our custody. They were brought in when I was not there and when they were taken into custody I was not in at that time.

7. Q. From whom did you receive the report that you had some prisoners in the custody of the guard unit?
A. I received a report from the executive officer when I came back to headquarters that they were taken into custody on the orders of the superior officers.

8. Q. What was done with these prisoners?
A. They were placed in a part of the enlisted men's barracks.

9. Q. Did you question these prisoners?
A. They were not questioned as my term there was very short and I was very busy and the days that I was not at the guard unit were many.

10. Q. Were there any air raids at Truk during your period of duty of fifty-five days?
A. There was a very great air raid on the 17th and 18th of February, 1944.

11. Q. Please tell the commission the circumstances of that air raid?
A. An air alarm was sounded around four in the morning of the 17th of February and it became known that a task force was raiding Truk. The first attacks were centered on the air fields. All three of the air fields became enveloped in flames. About five a.m. when it started to get lighter the attacks were centered upon the ships in the harbor. The tide of war was very much against us. At about eight in the morning there were no friendly planes that could be seen in the air. The American planes came in waves one after another of about 100 planes each. There was always about 100 planes in the air above us, and our losses increased greatly. During that time there were some special orders from the 4th Base Headquarters. One was to help salvage the ships that were damaged in the air raid, a second to dispatch 100 marines to the Takejima Air Field to help guard it. These orders were executed. Because of dispatching of men to the air fields, the personnel at the headquarters was very small and it was very hard to change the guards with the small number of seamen. Intelligence concerning the enemy received about ten o'clock that morning was that the gun battery at Yawata Jima had been bombarded and enemy submarines had slipped into the atoll and transport like ships could be seen. Losses on our side were very great. The number of people dead and wounded was several thousand. Ships were burning and people from the ships were coming up on land and the confusion was very great. This continued into the evening. The enemy centered its attack on the ships going to and fro in the harbor about three o'clock in the afternoon and the number of planes going over the headquarters became very few.

12. Q. What did you do with the prisoners then?
A. During the air raid in the afternoon the prisoners were executed. This I did not see, but I received a report later. I will explain what I knew about this execution before it was done. Around three that afternoon an ensign who was one of my subordinates came to me and said: "To keep these prisoners at such a time is very dangerous. I would like to have them disposed of." At that time, as I believed such a thing should not be done, I scolded him saying: "Would such a thing be done?" Then the ensign left. Later Lieutenant Ishii came and talked to me about this, and I thought at that time there was no other way, but to report this to my superiors and wait for their answer. As Lieutenant Ishii said, "Shall I ask headquarters?", I told him, "Yes". Ishii left and I think he asked permission by telephone. Then Ishii came back saying that the commanding officer said to execute the prisoners. I was very surprised and then I asked him once more whether this was true or not and he confirmed this. At the time I did not ask Lieutenant Ishii what sort of a telephone call did he make or who answered. I was very troubled and sat there thinking awhile. I judged at that time that these were absolute orders from operational headquarters and I thought that these were orders coming from headquarters concerning forthcoming operations. Then I said that if these are orders of the headquarters, then it can't be helped. Then Ishii said, "Will I dispose of them?" and I answered, "Yes". Ishii left and I think he relayed this to the officer in charge of the prisoners. Ishii again came back to me and said, "Shall I have Danzaki do this?" and I answered, "Have Danzaki do it." Danzaki did this. Danzaki had received orders. Other than this, the rest I did not see and I can not say.

13. Q. Who executed the prisoners?
A. Danzaki is charged with murder, but I know that Danzaki is not guilty of murder. All Danzaki did was to execute the orders of the 4th Base Headquarters which were relayed through myself and Ishii. It was during a period of great confusion as I have stated before and Danzaki had been ordered by Ishii. If Danzaki had done the execution at that time, I know it was because he had orders to do so. Danzaki is a very honest person. He is not a person who is cunning or has malice. He is a person who is respected by his officers and his subordinates. There is nothing further to add.

14. Q. Where were they executed?
A. This report I received later, but it was on the south side of the 41st Naval Guard Unit pier.

15. Q. Did you receive any report concerning the execution?
A. Later, as I stated before, I received a report that the prisoners had been executed on the south shore of the pier.

16. Q. Did you see this execution?
A. As I said before, after I told Ishii to tell Danzaki, I was very busy and I was looking at some maps in the room. I did not see the scene of the execution.

17. Q. Where were you at that time?
A. By the time, where do you mean?

18. Q. About three o'clock in the afternoon of February 17, 1944?
A. For the most part, I was in my room.

1217

19. Q. Did Danzaki report that he had executed the prisoners?
A. I believe he said the prisoners were disposed of.

20. Q. Is it certain that the 4th Base Headquarters put out an order for the execution of the prisoners?
A. Yes, this is certain and I have learned afterwards the way headquarters were thinking at that time was that the enemy landing was imminent and it was necessary to dispose of the prisoners.

21. Q. Did you report this to headquarters?
A. I think it was reported by telephone and that evening when I went to headquarters, I reported this at that time.

22. Q. To whom did you report this at headquarters?
A. To the senior staff officer, Commander Higuchi.

23. Q. In what room at headquarters was this?
A. There was a conference room on the veranda and it was at that place.

24. Q. Who else was with Commander Higuchi then?
A. After the conference with Commander Higuchi, the rest of the staff were there and I reported this.

25. Q. Are you sure that you reported this matter concerning the prisoners to Commander Higuchi?
A. This is certain, I reported this to Commander Higuchi while standing very close to him and Commander Higuchi answered, "Is that so?" That I reported this is very certain.

26. Q. Were there any staff officers during the air raid who neglected their duties?
A. I do not think so. I am here concerning this incident on a charge of neglect of duty. On this point, in view of my position, I would like to say a few words and I wish you would understand my way of thinking. When I first entered the Navy, I was taught the Japanese penal code. In there it is stated that during operations, if there was anybody who disobeyed he would be put to death. What I was told by my superiors was absolutely obeyed and anything ordered, whether it was good or bad, should be executed immediately. As a result of this, whatever responsibility which may come out shall rest upon the superiors. This I was told. I think this is also the rule in International Law. This was always in mind and actually whenever I came into contact with my subordinates this was the manner with which I dealt with them. According to these rules, a superior officer during operations has very great power and when an order is given a subordinate, it is absolutely obeyed. Moreover, it goes further than absolutely, being just blind obedience to the orders. All the judgement is left up to the superior officer. Whenever orders are given to the people below them, they are followed blindly and obediently and if this is not complied with a war can never be won. As a result, whether it is good or bad, the senior officer should carry the responsibility.

27. Q. The question is, were there any subordinates under you who neglected his duty during an air raid?
A. No.

28. Q. Did you write a statement concerning the execution of the prisoners?
A. I gave a statement to Lieutenant Commander Currie on the 15th of October. At that time my defense counsel, Mr. Ito, was not there. Later I found out that Mr. Ito had been appointed my defense counsel on the 30th of August.

29. Q. When did you enter the Navy?
A. In 1903.

30. Q. When did you retire from the Navy?
A. In 1928 I retired from active duty.

31. Q. When were you recalled and when did you come to Truk?
A. I arrived to take up my duties on the 27th of December 1943.

32. Q. How is your family?
A. My wife is 56 years old and I have 4 children.

33. Q. How old are you?
A. 62 years old.

The commission then, at 10:15 a.m. took a recess until 1042 A.M., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

Tanaka, Masaharu, Captain, Imperial Japanese Navy, the witness under examination when the recess was taken resumed his seat as a witness in his own behalf. He was warned that the oath previously taken was still binding and continued his testimony.

Cross-examined by the judge advocate:

34. Q. Do you recall the exact date these prisoners were delivered into the custody of the 41st Naval Guard Unit?
A. I do not remember. I just remember that it was in the beginning of January.

35. Q. Now, Captain, who delivered these prisoners into your custody?
A. It seems they were sent on the last ship from the Marshalls and when it came to Truk it was reassigned and they had to discard the prisoners at Truk. They were taken into our custody by the orders of the fleet headquarters.

36. Q. And at the time you received these prisoners, did they issue any instructions to you as to treatment and care of these prisoners?
A. No.

37. Q. Did you report the arrival of these prisoners to the 4th Base Unit?
A. No. I think the orders to take the prisoners into custody came from the 4th Fleet headquarters through the base headquarters to the 41st Guard Unit.

38. Q. At any time from January 1944 up until the time of the execution of the prisoners, insofar as you know, Captain, were they inspected or observed by any members of the 4th Guard Unit?
A. An officer was appointed in charge of the prisoners and he was to take care of them. All medical care was given by the doctor.

39. Q. Did the 4th Base Force have any connection in the way of inspection or supervision over these prisoners?
A. That I do not recall.

40. Q. In other words, then, Captain, the custody and supervision and entire handling of these prisoners was within your command?
A. Yes.

41. Q. Now, when these prisoners were turned over to the 41st Guard Unit, were you told how long you could expect to hold them?
A. As I was told by the executive officer that handling the prisoners would bring about many difficulties, I asked the headquarters if they could not be sent back to Japan where they had facilities to take care of them, by plane or transport.

42. Q. During the time these men were in your custody, what did they do? Did you work them?
A. They helped in digging air raid shelters.

43. Q. About how many hours a day did they help dig air raid shelters?
A. About two hours in the morning and about two hours in the afternoon.

44. Q. Are you absolutely certain that they never worked more than two hours in the morning and two hours in the afternoon of the same day?
A. Yes.

45. Q. Aren't two hours in the morning and two hours in the afternoon a very short time? Why didn't you work them more than that?
A. As it is a very hot place, it may have been too much on them.

46. Q. Captain Tanaka, are you a graduate of the Japanese Naval Academy?
A. Yes.

47. Q. In the Naval Academy did you receive any instruction with regard to treatment of prisoners of war?
A. I remember hearing about international law and I also remember that it was said at that time that Japan had not signed any treaties. Other than this I do not remember.

48. Q. Would you say that you are reasonably familiar with Japanese Naval Regulations?
A. I think I am fairly familiar with them.

49. Q. Do you know whether Japanese Naval Regulations include any sections on the treatment of prisoners of war as taken from International Law?
A. I think there is a section saying the Army would handle the prisoners. I do not think there were some smaller detailed laws concerning this.

50. Q. Do you know whether the regulations covering the Japanese Navy had incorporated into them all or parts of international regulations concerning the treatment of prisoners of war?
A. As Japan has not signed any prisoner of war treaties, I do not think there were any.

51. Q. You testified that when first informed by an ensign, you did not think these prisoners should be executed. Why did you think that?
A. I have known that the handling of prisoners is very important and as the war began, I know of a note sent to the Commander in Chief of the fleet from Central Headquarters saying to send all prisoners from places where there is no way of caring for them to Japan. I would like to add something more: I have also heard that Japan did not sign any treaties but they would have to recognize rules concerning prisoners. This was from the foreign office. I would like to add one thing more. I also think in military circles dispatches concerning prisoners were not known too well and people among the higher headquarters did not dwell too much upon this.

52. Q. Captain, do you know why you did not believe these prisoners should be executed at the very beginning?
A. This can be known with common sense. It also concerns the rules of humanity, and that is how I know.

53. Q. During the time these prisoners were in your custody did they commit any misconduct?
A. I have received no report on this. I do not think there was any.

54. Q. What then prompted the execution of these prisoners? What was the purpose behind the execution of these men?
A. Because it was during battle and because of the orders of the superior officer.

55. Q. Now, this execution took place following the first air raid on Truk, is that correct?
A. While I was there, that was the first air raid. That was the greatest and most terrific air raid I have ever experienced.

56. Q. Did the 41st Naval Guard Unit suffer any casualties as a result of this raid?
A. 80 of my men were killed.

57. Q. As a result of 80 of your men being killed, the animosity for the Americans was very great, is that correct?
A. This is a feeling at a time of battle. As for myself, I was absolutely resigned to my fate, but this feeling was absolutely not extended to the prisoners.

1221

58. Q. Do you say then that following the air raid on February 17, 1944, you yourself had great animosity toward the Americans as a result of this raid?
A. This was after there were no more of our planes in the sky. And it was a continuous attack by enemy planes. At that time I felt that if we had had more planes we could do more about the raid.

59. Q. As result of this raid what would you say was the condition of the morale of your troops?
A. I think everybody was resigned to his fate.

60. Q. Would you say that the morale was high or low, good or bad?
A. I believe the morale was very high.

61. Q. Is it correct then that with the morale very high all of the men felt they might be facing death very shortly?
A. Yes, because the rumors were circulating that the enemy might land.

62. Q. In the face of these rumors, what was the attitude of you and your troops toward the Americans?
A. As the defeat was so great, the feeling was of great regret.

63. Q. During the air raid, where were these prisoners confined?
A. I do not remember about that time.

64. Q. Insofar as you know were they put in an air raid shelter?
A. As everyone was alloted their place in the air raid shelter, I believe they were there.

65. Q. Were you in the air raid shelter?
A. During the morning there were some planes over head so I spent most of my time in the air raid shelter but in the afternoon I spent most of my time outside.

66. Q. Were these prisoners alloted space in the same air raid shelter in which you took refuge?
A. No, it was some distance apart.

67. Q. Now, Captain Tanaka, you testified that you did not believe it was proper that these prisoners should be executed. Why then did you consult superior authority if you knew it was not proper?
A. I believed they should not be executed and I also scolded and did not give permission, but I judged that it was during battle and it would be better to receive instructions. I have no other reason than this, nor is there any deeper reason.

68. Q. Insofar as you know Captain, was there any justification for the murder of these seven Americans?
A. I heard later, but I believed and judged as it was during operations, that my superior officer had judged so and I said yes. I know of no other small details or reasons. It was during operations and my superior officer had judged the battle conditions as such.

69. Q. Is it correct then Captain, you know of no justification for the murder of these seven men?
A. I have no other way of thinking but it was the orders of the superior officer.

70. Q. You testified you did not believe these men should be executed and that you knew there was no cause to execute them. Did the fact that you consulted superior officers or superior authority change your belief in that?
A. As I have stated before in the Japanese rules it says during battle, whether the orders of a superior officer are good or bad, he should execute them. This feeling is very strong and also it was during a terrific battle. That is why I said yes.

71. Q. However, at the time you said yes, you knew it was wrong to execute these men?
A. On my own responsibility I would never have done this. If this order had not come out, this would not have happened.

72. Q. Captain, you have testified that Lieutenant Ishii informed you that the 4th Base Force said to execute these prisoners. Did Lieutenant Ishii go to the 4th Base Force at your request?
A. As he came back in a short period of time, I think it was by telephone. He could not have gone and come back from the 4th Base Headquarters.

73. Q. Up until the time Lieutenant Ishii contacted the 4th Base Headquarters by telephone did they know you were contemplating the execution of these prisoners?
A. As it was something that was not reported to headquarters, I do not think they knew.

74. Q. Captain, insofar as you know, had the 4th Base Headquarters been considering the execution of these prisoners prior to the time Lieutenant Ishii contacted them?
A. I do not think that such a thing was possible.

75. Q. If Lieutenant Ishii had not contacted the 4th Base Headquarters, would this execution have ever taken place?
A. As a lot of difficult problems could arise, I thought nothing could be done except wait for the instructions from my superior officer.

76. Q. In other words, the initial idea to execute these prisoners of war was originated at the 41st Guard Unit and passed on to the 4th Base Headquarters for confirmation?
A. Yes, as many officers came to me and said so.

77. Q. You have heard the testimony in this court of Admiral Wakabayashi and his Chief of Staff, Commander Higuchi, and they have both testified that they knew nothing of the prisoners of war being present or that they contemplated the execution of these prisoners, or the execution taking place. How do you explain this testimony in the light of your testimony?
A. I said that I reported this to the Senior Staff Officer, Higuchi. There is no mistake in this.

78. Q. You also said that you had orders from the 4th Base Force. Is there any mistake in that?
A. As Lieutenant Ishii came to me personally and reported this to me, there can be no mistake.

79. Q. Did Lieutenant Ishii tell you to whom he had talked?
A. All he said was he had received orders from headquarters.

1223

80. Q. Orders from headquarters to do what?
A. Orders to execute the prisoners.

81. Q. When he told you this, did you consider it rare and unusual that these prisoners were being executed?
A. At that time I did not think of such a thing. The only thing that was in my mind was obedience to orders.

82. Q. Did you attempt to verify in any way these orders that Lieutenant Ishii said had come down to you?
A. I asked Ishii to confirm this and he replied in the affirmative. I relied on him greatly, therefore I took his word. He was a person who was thought very reliable by headquarters and he often talked with the staff officers on his own. He was a person upon whom I relied fully. I do not think he would make any mistakes. I relied on him fully.

83. Q. Is it correct then, Captain, you ordered these seven men executed, relying entirely upon the verbal statement of Lieutenant Ishii?
A. Yes.

84. Q. Do you know as a fact whether he actually contacted 4th Base Headquarters?
A. As the place where I was and the telephone were some distance apart, I could not hear him, so I cannot say.

85. Q. Is it possible then that Lieutenant Ishii made up this account he gave you and never contacted the 4th Base Headquarters?
A. As I relied upon Ishii greatly, even now I do not think he would have done such a thing.

86. Q. On the day of the execution of these prisoners, where were they being confined, if you know?
A. I do not remember.

87. Q. Where was their usual place of confinement, if you know?
A. Are you asking about the air raid shelters?

88. Q. Yes, where was the air raid shelter where these prisoners would be located?
A. To the north of the entrance were three air raid shelters. I think it was one of them.

The commission then, at 11:38 a.m., took a recess until 2:05 p.m., at which time it reconvened.

Present:

All the members, the judge advocate, the interpreters, each of the accused and his counsel.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

1224

Tanaka, Masaharu, Captain, Imperial Japanese Navy, the witness under examination when the recess was taken resumed his seat as a witness in his own behalf. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued).

89. Q. Now Captain, how far were these air raid shelters from your headquarters?
A. I think it was a distance of about 70 to 80 meters.

90. Q. When you passed on the order to execute these men, did you state how or where the execution would take place?
A. No.

91. Q. Now Captain, do you know the exact place where the execution occurred?
A. I noticed it when I went around later.

92. Q. Now, how far did you say that the place of execution is from your headquarters?
A. From the west end of the veranda headquarters about 50 to 60 meters.

93. Q. Now Captain, how did it happen that these seven men were executed right in front of your headquarters?
A. There is no particular reason.

94. Q. Well, they could just as well have been disposed of at any spot, could they not?
A. As it was an order I thought it was a bad thing but I had no feeling that I would like to hide this.

95. Q. Captain, could this execution have taken place at any other spot other than on the sea wall?
A. As I did not feel that it was something that I should hide I had no particular spot.

96. Q. Captain, was this execution carried out in secret?
A. As I could not help this, the other people must have thought the same, I do not think there was any particular reason.

97. Q. After you had decided to execute these seven men, was the word passed within your unit that the execution was going to take place?
A. No.

98. Q. Did the execution take place in secret?
A. After I passed on the word to have Danzaki do the execution, I did not see it so I can not say.

99. Q. When Danzaki reported the execution to you, did he tell you whether any persons saw it other than himself?
A. He just stated simply that they have been executed.

1225

100. Q. How many men did he say had been executed?
A. He did not state the number in his report.

101. Q. When he said "they", did you know how many had been executed?
A. No, I did not.

102. Q. How many men did you have Danzaki execute or how many men did you intend for him to execute?
A. I did not know the number and I did not say that there are so many people and to do such and such. At that time I did not know.

103. Q. It was your intention, then, to execute any and all prisoners that the 41st Guard Unit had in its custody, is that correct?
A. At that time I did not look into the details. I was very busy at that time and I did not notice the details.

104. Q. Captain, were any other men executed besides these seven on the sea wall?

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

The judge advocate, with the permission of the commission, withdrew the question.

105. Q. Now Captain, at any time did you intend to participate in this execution yourself?
A. No, also I was busy. Besides this I could not bring myself to look upon the execution.

106. Q. Now Captain, you have heard the testimony of two Trukese witnesses to the effect that they were there and saw approximately one huhdred persons on and around the veranda of your headquarters; can you account for all these persons witnessing this execution?
A. After I had given Lieutenant Ishii the order I stayed in my room for a long time. I felt sorry for them. I thought maybe they were being taken there now. I stayed in the room and did not look outside. As I did not see, I did not know how the execution took place. Some time passed and I went outside. My room is located on the eastern side of the veranda and I went outside of the room and walked down the veranda toward the middle of the headquarters where there is a chair which was facing north. I sat there. After a time I went back to my room. The entrance, or the stairs, leading up to the veranda are located in the middle. In the west end were many people and I could not see further. If I had gone further, I might have been able to see, but as I did not wish to see, I stayed there. Is the question, "Was I in a position to see?"

107. Q. No.
A. Are you asking if I was in a position where the witnesses saw me?

108. Q. Now, when you saw this large crowd of people on the veranda did you know what they were doing there?
A. I think it was concerning the exedution.

109. Q. You think! Don't you know it was concerning the execution?
A. At that time I did not notice. I did not think as I did not want to see.

1226

110. Q. You did not want to see what?
A. This was just a feeling.

111. Q. How do you account for all those persons being present following a violent air raid when they were supposed to be very busy?
A. I think as it was near the evening meal and the number of persons was very few, they had assembled for the dinner.

112. Q. Do you know what time of day this execution took place?
A. As I did not see it, I can not say.

113. Q. Do you know the nationality of these men who were executed?
A. I do not know, but I think Americans.

114. Q. Insofar as you know, as the commanding officer of the 41st Naval Guard Unit, was any trial given to any of these men?
A. I do not know.

Re-examined by the accused:

115. Q. You testified this morning that an ensign came to you on the morning of the 17th to ask you for permission to execute these prisoners. Do you remember who this ensign was?
A. I do not remember.

116. Q. Why do you think an ensign would come to you directly on a question like this?
A. At that time I became very angry and scolded him.

117. Q. Then you yourself did not order the execution, did you?
A. As I have stated before, it was on the orders from the headquarters, which I believed, that this was done.

118. Q. Is it correct that your testimony regarding this execution has not been as an eye witness to the execution, but only as to what you heard others say and reported to you?
A. I have not testified as a witness who saw the execution, but I have testified from the reports that I received.

119. Q. Was it your intention to carry out orders of your superiors which were given in battle with the idea that in carrying these out you were helping to win victory for Japan when the tide of battle seemed to be going against her on that day?
A. I believed the orders of my superiors. This was in battle and I have to obey their orders. The superior officers in giving their orders were trying to win the battle for Japan, this I believe is being sincere to ones country.

120. Q. You answered this morning that the entire custody and care of prisoners of war was yours. Did you mean by that you were not accountable to superior officers at 4th Base Headquarters for their safety and custody?
A. Everybody has a responsibility according to their duties. As I was responsible when they were in the custody of the 41st Naval Guard Unit my direct superiors also had responsibility for the supervision of them. The superior officers above him also have a responsibility for their supervision. Everyone had a responsibility according to their duties.

1227

121. Q. Were the details of the working hours of these prisoners left up to Lieutenant Ishii?
A. Naturally the executive officer was appointed to do this.

122. Q. How many people were on the veranda when you walked out there?
A. I can only say the number I could see at the end of the veranda. I can not say anything about the number of people which were hidden by the room.

123. Q. But on the veranda itself, how many people were on the veranda?
A. I could only see the ones on a line east and west and I believe there were about ten people.

124. Q. Had you ever been in a battle or an air raid before this time?
A. No.

125. Q. How long ago was it that you were at the Naval Academy?
A. I was a student from 1903 to 1906.

126. Q. When did you last read Navy Regulations?
A. Do you mean Navy Rules?

127. Q. Yes, when did you last read the Navy Rules?
A. I read it every once in awhile to teach my subordinates.

128. Q. Do you know why you were relieved of your duties immediately after this air raid?
A. When I came as commanding officer of the 41st Guard Unit on 27 December 1943, this area was not considered the first line. At the end of January the Marshalls, before that the Gilberts fell and the front line defenses came nearer and nearer. On the 17th of February there was a great air raid and the authority thought that this work was too great for me and I was replaced by a captain on the active list who was ten years younger than myself. As the tide of battle went so rapidly and this area became the front line is why I believe I was replaced of my duties.

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

The commission did not desire to examine this witness.

The witness made the following statement:

I would like to say a few words. I had been assigned a very unfortunate duty in this incident. I feel very regretful. There was a great air raid and concerning the prisoners I had not intended as was stated. Subordinate officers came to me about this. I scolded them once, but later Lieutenant Ishii came and spoke to me about this, and all I thought at that time was an order of the superior officers had come. As for myself I had not such an intention. I received an order from a superior officer. I believe this order from my superior officers was legal. In the Japanese service the orders of a superior require absolute obedience. Even if you believe an order is wrong you are not allowed to go against it. On this point I feel very sorry for Danzaki. That is all.

1220

The witness resumed his status as an accused.

The commission then, at 2:50 p.m., took a recess until 3:10 p.m., at which time it reconvened.

Present:

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

No witnesses nmt otherwise connected with the trial were present.

Yoshinuma, Yoshiharu, Lieutenant (junior grade), Imperial Japanese Navy, at his own request was duly sworn as a witness in his own behalf.

Examined by the judge advocate:

1. Q. Are you Lieutenant (junior grade) Yoshinuma, Yoshiharu, Imperial Japanese Navy, an accused in this case?
A. Yes.

Examined by the accused:

2. Q. Have you ever had any duties at Truk as a Japanese serviceman?
A. Yes.

3. Q. When did you arrive at Truk?
A. I arrived on the 30th of July 1943.

4. Q. When did you leave Truk?
A. On the 11th of July 1944 I was wounded on my right thigh by the bombings of large air-craft and on the 30th of July 1944 I was evacuated to Japan on the hospital ship Hikawa Maru.

5. Q. What did you do after you were repatriated to Japan?
A. We left Truk on the 13th of July, arrived at Yokosuka August 1, on the second I was entered in the Yokosuka Naval Hospital.

6. Q. How long were you in the Yokosuka Naval Hospital?
A. From August the second to the end of October of the same year I was in the Yokosuka Naval Hospital where my bone knit. While I was wearing a brace before the bone became well my legs developed some rigidness. I was sent to the Atami Naval Hospital to take this rigidness out. During this period the hospital gradually became filled with patients. As the hospital became full, though my thigh was not completely cured, I was taken out of the hospital. As I was not able to take up duties at the units I received authorization to go home and complete my cure. I was at my home until the end of the war and until I was brought to Guam. Even now my leg is not completely well.

7. Q. At Truk to what unit were you attached?
A. I had duties at the 41st Naval Guard Unit.

8. Q. What were your duties at that unit?
A. I had the work of a repair officer. I repaired boats, vehicles, buildings and ordnance.

1229

9. Q. Who was your direct superior officer?
A. The officer directly above me was the officer for Internal Affairs, Lieutenant Ishii. Above him was Tanaka, Masaharu, commanding officer of the unit.

10. Q. Have you ever seen an American prisoner?
A. I have not.

11. Q. Have you ever executed an American prisoner?
A. I have not executed an American prisoner.

12. Q. Have you ever been ordered to execute a prisoner?
A. Yes.

13. Q. From whom was this?
A. It was from Lieutenant Ishii.

14. Q. Did you execute this order?
A. I did not.

15. Q. Tell us the circumstances at that time?
A. About a month before this incident occurred, I was stricken with dengue fever and I was in bed for three weeks. About two days after I got over with dengue fever I became stricken with diarrhea. I do not remember whether it was after the fall of the Marshalls or Saipan, everybody was saying that Truk would be next. Right after I heard this an air raid was sounded. After this I heard that the enemy was about to land. Orders were shouted out to hurry up on the double. Because of these orders I thought I could not lie in bed, so I got up. As I had gotten up suddenly I felt a little faint. Heading for the air raid shelter, I left the room and I think it was in front of the Administration building that I came upon Lieutenant Ishii. I was given an order~~,~~ suddenly that the enemy is about to land - hurry up and see that the prisoners are disposed of. At that time I received a great shock, overhead planes were in combat, sounds of bombs dropping, noise of machine guns firing. I became very faint and then everything in front of my eyes went black. When I became faint I only knew two things, one - the enemy was about to land and two - I had to go to the air raid shelter. I do not know when the air raid was over. How I came back to my room I do not remember. When I came to I was in the bed in my room. An attendant was taking out my waste.

16. Q. Do you know the two native witnesses who appeared in this court?
A. I do not remember them.

17. Q. Have you ever presented a statement to the board of investigation?
A. I have.

18. Q. What were the contents of that statement?
A. Under the circumstances that I stated above. On the 24th of June I handed Commander Currie a statement saying that I had cut one prisoner. This I wrote against my will. From the time I was placed in Sugamo Prison and presently, I have been questioned many times by Commander Currie, but I had always replied that I did not do so. I was told by Commander Currie

that the fact that I cut a prisoner is known and he said the only thing that is not known is from whom you received your order and I said, from Lieutenant Ishii. If I had written I did cut a prisoner I do not remember it. This was against my will and thinking back on it I wanted a chance to cut this out of my statement. Just at that time Commander Currie appeared and I told him about this and he said, "O.K.", so I thought he understood me. Later on the 25th of October my statement was brought to me and I was asked whether there were any mistakes. Other than the two points that I did not go to the execution and I could not believe myself that I did not execute the orders I had written into the statement there is no mistake in my statement and I signed it.

19. Q. Then this statement was re-written, is that true?
A. The two points I wanted corrected were re-written into the statement and I believe it is the same as being re-written.

20; Q. What is the extent of your education?
A. I have graduated from the higher grammar school.

21. Q. When did you enter the Navy?
A. I entered the Navy on the 26th of October 1923.

22. Q. When did you become a non-commissioned petty officer?
A. On the first of November 1936.

23. Q. When were you commissioned an officer?
A. I was commissioned an ensign on the first of June 1943.

24. Q. Then you have spent 22 years in the Navy, is that correct?
A. Yes.

25. Q. How old are you at present?
A. I am 41 years old according to the Japanese way of counting.

Cross-examined by the judge advocate:

26. Q. Are you aware that the 41st Naval Guard Unit had a boat run by Trukese natives to transport it's personnel from island to island at Truk?
A. I am.

27. Q. Whenever the boat needed repairs to whom did they go to get them?
A. There is a person who is in charge of the boats. This person would look over the damage on the boats which needed repairs, reported this to me and then had it repaired.

28. Q. Did these Trukese natives who operated this boat have any contact with you?
A. No.

29. Q. Now, you have stated that you never even saw any prisoners of war, is that correct?
A. It is certain, I did not see any prisoners of war.

30. Q. You further stated that you never participated in an execution, is that correct?
A. Yes.

31. Q. Have you always told that same thing?
A. Yes.

32. Q. Are you absolutely certain of that?
A. Yes.

33. Q. How do you account for the fact that two Trukese natives identified you as a sword wielder at the execution even after they have not seen you for approximately two years?

The accused objected to this question on the ground that the judge advocate is attempting to make the accused prove his own innocence.

The judge advocate replied.

The commission was cleared.

The commission was opened. All parties to the trial entered.

No witnesses not otherwise connected with the trial were present.

The commission announced that the objection of the accused was sustained.

34. Q. Now, you have heard Admiral Wakabayashi testify that there were forty-one American prisoners of war in an American submarine at Truk. Did you ever see any of these men?

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

The judge advocate replied.

The commission announced that the objection of the accused was not sustained.

The question was repeated.

A. I did not.

35. Q. You have also heard Captain Tanaka testify that these seven prisoners of war who were executed used to work digging air raid shelters, are you absolutely sure you did not see any of these men?
A. I did not see them.

36. Q. Now, you have testified that you received orders to execute prisoners of war. How did you know there were any prisoners of war?
A. I was very surprised at suddenly receiving such orders.

37. Q. Did you know that there were any prisoners of war to be executed?
A. No.

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

The commission did not desire to examine this witness.

1232

The witness made the following statement:

I am very surprised and regretful that I am being tried in this incident and for an incident that I do not remember. I do not know about this incident. I am not lying.

The witness resumed his status as an accused.

The defense rested.

The accused, Tanaka, Masaharu, Captain, Imperial Japanese Navy, read a written statement in Japanese in his defense, appended marked "K".

An interpreter read the accused, Tanaka's, statement in English, appended marked "L".

The commission then, at 4:30 p.m., adjourned until 9:10 a.m., Wednesday, November 13, 1946.

SIXTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Wednesday, November 13, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocate.
Vivian Kilner, civilian, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

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

The accused, Danzaki, Tomereku, lieutenant commander, Imperial Japanese Navy, read a written statement in Japanese, in his own behalf, original appended marked "M".

An interpreter read a translation of the statement of the accused Danzaki in English, copy appended marked "N".

The accused, Yoshimuma, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, read a written statement in Japanese in his own behalf, original appended marked "O".

An interpreter read a translation of the statement of the accused Yoshimuma in English, copy appended marked "P".

The judge advocate desired to make no opening argument.

Mr. Kenro Ito, counsel for the accused read a written argument in Japanese, original appended marked "Q".

The commission then, at 10:15 a.m., took a recess until 10:30 a.m., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

An interpreter read a translation of the argument of Mr. Ito, in English copy appended marked "R".

Mr. Masanao Toda, counsel for the accused, read a written argument in Japanese, original appended marked "S".

The commission then, at 11:20 a.m., took a recess until 2:05 p.m., at which time it reconvened.

Present:

All the members, the judge advocate, the interpreters, each of the accused and his counsel.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

An interpreter read a translation of Mr. Toda's argument, in English, copy appended marked "T".

The accused then, at 2:30 p.m., requested an adjournment until 9:00 a.m., Thursday, November 14, 1946, to complete the preparation of their closing arguments.

The commission announced that the request of the accused was granted.

The commission then, at 2:30 p.m., adjourned until 9:15 a.m., Thursday, November 14, 1946.

SEVENTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Thursday, November 14, 1946.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Colonel Adolph L. Ramon, Army of the United States,
Colonel Douglass G. Pamplin, Army of the United States,
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps,
Commander Ramon J. Wallenborn, Dental Corps, U. S. Navy,
Commander Vance O. Smith, U. S. Naval Reserve, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, judge advocate.
Robert Oldham, yeoman third class, U. S. Navy, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

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

Martin E. Carlson, Commander, U. S. Naval Reserve, a counsel for the accused, read a written argument appended marked "U".

The accused waived the right to have the argument of Commander Carlson read in Japanese in open court.

The commission then, at 9:50 a.m., took a recess until 10:20 a.m., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

The judge advocate read his written closing argument, appended marked "V".

The accused waived the right to have the argument of the judge advocate read in Japanese in open court.

The trial was finished.

The commission was cleared.

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

As to the accused, TANAKA, Masaharu:
The specification of the first charge proved.
And that the accused, TANAKA, Masaharu, captain, Imperial Japanese Navy, is of the first charge guilty.

1236

The first specification of the third charge proved.
The second specification of the third charge proved.
And that the accused, TANAKA, Masaharu, captain, Imperial Japanese Navy, is of the third charge guilty.

As to the accused, DANZAKI, Tomeroku:
The specification of the first charge proved.
And that the accused, DANZAKI, Tomeroku, lieutenant commander, Imperial Japanese Navy, is of the first charge guilty.

The specification of the second charge not proved.
And that the accused, DANZAKI, Tomeroku, lieutenant commander, Imperial Japanese Navy, is of the second charge not guilty; and the commission does therefore acquit the said, DANZAKI, Tomeroku, lieutenant commander, Imperial Japanese Navy, of the second charge.

As to the accused, YOSHINUMA, Yoshiharu:
The specification of the first charge proved.
And that the accused, YOSHINUMA, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, is of the first charge guilty.

The specification of the second charge not proved.
And that the accused, YOSHINUMA, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, is of the second charge not guilty; and the commission does therefore acquit the said, YOSHINUMA, Yoshiharu, lieutenant (junior grade), Imperial Japanese Navy, of the second charge.

The commission was opened. All parties to the trial entered.

No witnesses not otherwise connected with the trial were present.

The commission announced its findings.

The commission announced that it was prepared to hear evidence in mitigation.

A witness for the defense as to matters in mitigation was duly sworn.

Examined by the judge advocate:

1. Q. State your name.
A. Toda, Masanao.

2. Q. Are you a counsel for the accused in this case?
A. I am.

Examined by the accused:

3. Q. Do you have in your possession certain written documents in behalf of the accused in this case?
A. I do.

4. Q. What are these documents?
A. These are statements of character or affidavits or petitions in behalf of Captain Tanaka, Masaharu, Lieutenant Commander Danzaki, Tomeroku and Lieutenant (junior grade) Yoshimuma, Yoshiharu. There are five for Captain

1237

Tanaka; fifty-one for Lieutenant Commander Danzaki and two for Lieutenant (junior grade) Yoshinuma.

5. Have these documents been translated into English?
A. They have been by interpreters of this commission.

6. Q. Do you wish to offer in evidence these documents in behalf of Captain Tanaka, Lieutenant Commander Danzaki and Lieutenant (junior grade) Yoshinuma?
A. Yes.

7. Q. Do you waive the reading of these documents in Japanese in open court?
A. There are a great number of documents and therefore to read them in English is sufficient.

8. Q. In whose behalf do you first wish to offer documents?
A. I first wish to offer in evidence five documents in behalf of the accused, Tanaka, Masaharu.

Five documents in Japanese were then submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection, they were so received and are appended marked "Exhibits 7a" through "7e", respectively.

Five documents, the English translations of "Exhibits 7a" through "7e", respectively, were then submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection they were so received, and are appended marked "Exhibits 8a" through "8e", respectively.

9. Q. I shall ask the court interpreter to read the documents in behalf of the accused, Tanaka, Masaharu, in English at this time.

An interpreter read the English translations of the five documents in behalf of the accused, Tanaka, Masaharu.

10. Q. For whom do you next desire to submit documents?
A. I wish to offer in evidence fifty-one documents in behalf of the accused, Danzaki, Tomeroku.

Fifty documents in Japanese were then submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection, they were so received and are appended marked "Exhibits 9a" through "10x", respectively.

Fifty-one documents, the English translations of "Exhibits 9a" through "10x", respectively and one document the original of which is in English were then submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection they were so received and are appended marked "Exhibits 11a" through "12y", respectively.

An interpreter read the English translations of the fifty documents and the original of the one on English, in behalf of the accused Danzaki, Tomeroku.

The commission then, at 3:35 p.m., took a recess until 3:45 p.m., at which time it reconvened.

Present:

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

No witnesses not otherwise connected with the trial were present.

Toda, Masanao, the witness under examination when the recess was taken resumed his seat as a witness for the accused. He was warned that the oath previously taken was still binding and continued his testimony.

(Examination continued.)

11. Q. For whom do you next desire to submit documents?
A. I wish to offer two documents in behalf of the accused, Yoshinuma, Yoshiharu.

Two documents in Japanese were then submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection, they were so received and are appended marked "Exhibits 13a" and "13b", respectively.

Two documents, the English translations of "Exhibits 13a" and "13b", respectively, were then submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection they were so received and are appended marked "Exhibits 14a" and "14b", respectively.

An interpreter read the English translation of the two documents in behalf of the accused, Yoshinuma, Yoshiharu.

The judge advocate did not desire to cross-examine this witness.

The accused did not desire further to examine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness resumed his seat as a counsel for the accused.

The accused made the following statement:

We request permission to address the Commission before you determine the sentence in this case.

Since statements of the accused Tanaka and Danzaki were put into evidence by the prosecution as well as a statement of Lieutenant Commander Ishii, from whom oral testimony could not be obtained, we desire to call the attention of the commission to Section 454 Naval Courts and Boards. This section states in part as follows:

"In any case where a deposition is used in evidence by the prosecution by reasons of the fact that oral testimony can not be obtained, as authorised by Article 68, A.G.N., the maximum punishment which may be imposed shall not extend to death or to imprisonment or confinement for more than one year".

These limitations apply to all cases whether or not the trial is for an offense for which a limitation is otherwise prescribed.

1239

The judge advocate replied.

The commission was cleared.

The judge advocates ~~were~~ was recalled and directed to record the sentence of the commission as follows: 817

The commission, therefore, sentences him, Tanaka, Masaharu, captain, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring.

The commission, therefore, sentences him, Dongaki, Tomeroku, lieutenant commander, Imperial Japanese Navy, to be confined for the term of his natural life.

The commission, therefore, sentences him, Yoshimura, Goichiro, lieutenant (junior grade), Imperial Japanese Navy, to be confined for the term of his natural life.

Arthur G. Robinson
ARTHUR G. ROBINSON,
Rear Admiral, U. S. Navy, President.

Adolph L. Ramon
ADOLPH L. RAMON,
Colonel, Army of the United States, Member.

Douglas G. Pamplin
DOUGLASS G. PAMPLIN,
Colonel, Army of the United States, Member.

Adolph Zuber
ADOLPH ZUBER,
Lieutenant Colonel, U. S. Marine Corps, Member.

Ramon J. Wallenborn
RAMON J. WALLENBORN,
Commander, Dental Corps, U. S. Navy, Member.

Vance O. Smith
VANCE O. SMITH,
Commander, U. S. Naval Reserve, Member.

[illegible]
DANIEL FLYNN,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

Edward L. Field
EDWARD L. FIELD,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

1241

The commission was opened. All parties to the trial entered.

The commission then read and pronounced the sentence to the accused.

The commission, having no more cases before it, adjourned to await the action of the convening authority.

ARTHUR G. ROBINSON,
Rear Admiral, U.S. Navy, President.

DANIEL FLYNN,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

EDWARD L. FIELD,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

1242