

HEADQUARTERS  
UNITED STATES FORCES  
CHINA THEATER  
Office of the Theater Judge Advocate

JA 201 - Ishihara, Isami,  
Civilian Interpreter,  
Armed Forces of Japan.

APO 971  
30 April 1946

SUBJECT: Review of the Record of Trial by a Military Commission of  
Ishihara, Isamu, Civilian Interpreter, Armed Forces of Japan.

TO : The Commanding General, United States Forces, China Theater  
APO 971.

1. OFFENSES:

a. Charge: Violation of the Laws of War

That the accused did willfully and unlawfully commit cruel, inhuman and brutal atrocities against certain American Prisoners of War.

(1) Willfully and unlawfully brutally beat and torture nine American Prisoners of War, by beating them with his fists and striking them with a leather riding crop, and by subjecting them to torture by pouring water into their mouths and nostrils until they suffocated and were rendered unconscious.

(2) Willfully and unlawfully brutally beat with his fists and strike with an unsheathed saber and flashlight an American Prisoner of War.

(3) Willfully and unlawfully brutally beat an American Prisoner of War by striking him with a wooden timber until he was rendered unconscious, and clubbing and kicking him after he had fallen to the ground in an unconscious state.

(4) Willfully and unlawfully brutally beat with his fists and kick an American Prisoner of War.

(5) Willfully and unlawfully brutally beat with his fists an American Prisoner of War.

(6) Willfully and unlawfully brutally beat with his fists an American Prisoner of War and thereafter force him to stand at attention for five hours in the hot sun without medical attention.

(7) Willfully and unlawfully brutally beat with his fists and strike with a riding crop fifteen named American Prisoners of War, and numerous others whose names are unknown.

- b. Plea: Not Guilty
- c. Findings: Guilty
- d. Sentence: Confinement at hard labor for life
- e. Maximum Sentence: As a military commission may direct
- f. Convening authority: Lieutenant General A. C. Wedomeyer, U.S. Army, Commanding General, United States Forces, China Theater.
- g. Place of Trial: Courtroom in the Ward Road Jail, Shanghai, China.
- h. Date of Trial: arraignment, 7 February 1946; Trial, 4 March 1946 to 7 March 1946.

2. PRELIMINARY REMARKS:

Pursuant to paragraph 4, Special Orders No. 30, Headquarters United States Forces, China Theater, dated 2 February 1946, as amended by paragraph 7, Special Orders No. 44, Headquarters United States Forces, China Theater, dated 19 February 1946, and as amended by paragraph 10, Special Orders No. 51, Headquarters United States Forces, China Theater, dated 28 February 1946, and as further amended by paragraph 1, Special Orders No. 53, Headquarters United States Forces, China Theater, dated 2 March 1946, a Military Commission was appointed for the trial of persons, units and organizations accused as war criminals in this Theater (R 2), and on completion thereof to transmit the record of trial, including any judgement or sentence directly to Headquarters United States Forces, China Theater, for action by the appointing authority (the Commanding General, China Theater) (R 2). By letter of transmittal, dated 2 February 1946, the charges against the accused in the instant case were forwarded by the Theater Judge Advocate to the Commanding General, U.S. Forces, China Theater (R 3). By first indorsement, dated 2 February 1946, the charges against the accused in the instant case were referred for trial by the Commanding General, United States Forces, China Theater to the Military Commission appointed by paragraph 4, Special Orders No. 30, Headquarters United States Forces, China Theater, dated 2 February 1946 (R 3).

3. EVIDENCE:

The following is a brief summary of the competent evidence:

The accused was a civilian interpreter attached to the Japanese Army and serving at Woosung and Kiangwan prisoner of war camps from 6 May 1942 to 31 January 1945 (Ex. #40, R 108, 110). Col. Odera was commander of the prisoner of war camps both at Woosung and Kiangwan, at which places the accused was employed as interpreter (R 100). Odera established a definite policy for the treatment of prisoners of war (R 100) on the basis that a prisoner of war "is not to be considered as an enemy but an ordinary prisoner who must be protected" (R 100). The guards were instructed by Odera that they were to observe the prisoners at a distance, and that they were not to lay their hands on the prisoners or do them any violence (R 101). These instructions were given to the guards at every change of guard (R 101). Col. Odera, as camp commander, had the authority to punish the prisoners "in accordance with regulations accepted by law and also in accordance with regulations of the Japanese Army (R 101). No other person had authority to punish prisoners personally (R 101). The accused was personally informed of this policy by Col. Odera, and he was told that "it was not right" to mistreat prisoners (R 101). Col. Odera meted out punishment "in accordance with regulations" for violation of camp orders (R 107).



The accused, an interpreter, acted like a camp manager "to the prisoners of war" (R 110), although one Lt. Matsui was camp manager (R 111). He conducted a systematic reign of mistreatment, torture and cruelty toward the American prisoners of war (R 108-110). In January 1944, the accused conducted an inquiry concerning alleged "dealing" between prisoners of war and Chinese workmen (Ex. #4, R 27). The prisoners were questioned and then beaten and tortured (R 27, 19-26, 108). Lt. Foley, a medical officer in the U.S. Navy, was questioned from 2200 on 12 January to 0900 on 13 January. He received "over 50 lashes with the whip, and 4 or 5 hours of the water cure" from the accused (R 27, 47, 48, 108) and lost consciousness completely (R 27). The "water treatment" consisted in binding a man to a ladder on the floor. "The turbinate bones are fractured with a blunt instrument which is inserted in the nostrils. This causes a blood clot to form and obstruct the nasal passages, water is then poured down the victim's mouth until he suffocates. He is allowed to recover, then the process is repeated" (R 27, 48). S/Sgt. Minnick was beaten by the accused because of suspicion of monetary exchange (R 19). He was "ordered to strip to the waist", and the accused used his "riding crop" across Minnick's neck, shoulders and head for "five minutes", the beatings continuing until he became unconscious (R 20, 22, 26, 40, 108). He was then given the "water treatment" by the accused several times (R 20, 48, 55). The following day Minnick was sentenced by Col. Odera to 10 days in the guardhouse (R 20). Sgt. Schick of the Marine Corps was questioned by the accused, and was then beaten by the accused with "a riding crop on the head and body until the riding crop was broken" (R 22), after which he was given the "water treatment" by the accused (R 22). Subsequently he was confined for 15 days by Col. Odera (R 22) for violation of camp regulations (R 22). Carter was confined for 14 days for exchanging American money for CRB notes, and for four days he was beaten by the accused with a "leather quirt" (R 29-30). Bergman was accused of changing "gold" for Chinese money. He was awakened at 2 in the morning and ordered to the interpreter's office where the accused struck him over the face and body and head with a riding crop, and when he fell to the floor the accused kicked him over the body and head (R 27-28). He was then given the "water treatment" by the accused until he gagged, choked and "passed out" (R 28-29, 48, 56, 108). A week later he was taken before Col. Odera and confined for 5 days in the guardhouse (R 29). Lum was given the "water treatment" by the accused (R 39, 108). Sgt. Stowe of the Marines was section leader at the prisoner of war camp (R 24). He was called to the accused's office for questioning in the middle of the night, and was hit by the accused across the face with a "leather riding quirt" and with fists (R 25). He was ordered to remove all his clothes, all the windows were thrown open, it then being 16 degrees above zero, while a bucket of water was thrown on him (R 25). He was then given the "water treatment" (R 25). Subsequently he was sentenced to twenty days by Col. Odera (R 25). Sgt. Stowe of the Marine Corps was given the "water treatment" and frequent beatings by the accused (R 22, 26, 43, 55, 108), and a similar reception was accorded Sgt. Bishop (R 31, 108).

The "water treatment" was performed by the accused "on his own initiative" (R 56) and such treatment was not accorded to Japanese, nor was it seen in the Japanese Army (R 53).

Sgt. Ketner of the Marine Corps was beaten by the accused with fists, and struck with the flat side of a sword and with a flashlight across his face "drawing blood"; he was kicked "in the testicles" by the accused who then spat in his face and placed him "in the brig" for 4 days, 2 of which were without food (R 59, 61-63, 65). Lt. Huizenga, (now Captain), a graduate of the U.S. Naval Academy and a Marine officer received from the accused "the worst beating I saw anyone get" (R 65, 68, 71). Huizenga had requested the camp carpenter "to do something" for him, the matter was reported to the accused who then took disciplinary action" (R 65). After ranging three guards armed with bayonets about Huizenga the accused struck Huizenga with a wooden club about the "size of a softball bat" about the head and shoulders, and base of the skull until "the lights went out" (R 65, 73). After Huizenga was knocked down and was unconscious, the



accused kicked him "out the groin" and ribs and beat him with a "leather quirt" all over the face and body (R 65, 68, 71, 73, 75, 78). Sgt. Larzing was struck in the face by the accused with his fists and kicked in the body and "testicles", and made to stand at attention while undergoing the beating (R 77). Captain Climie of the Marines was mess officer at the prisoner of war camp (R 80). The accused beat him with his fists, the beating lasting for about 20 minutes to half an hour and Climie was knocked to the ground (R 79-81, 98, 109, 114). Shirley Akin was a structural iron worker employed on Wake Island (R 82) and became a prisoner of the Japanese on 23 December 1941 (R 83). The accused conducted an investigation relative to a breaking in to a canteen and the stealing of food. During the investigation Akin was beaten by the accused with his fists, his nose was fractured, teeth chipped and loosened, and then he was forced to stand at attention in the "burning sun" without any head covering for a period of five hours, during which time he was not permitted to stop the flow of blood from his nose (R 83).

The accused struck Hannah across the ear with a bamboo pole because he did not have enough dirt in a cart in the construction of a rifle range (R 85). He struck Lt. McBrayer (now Captain) of the Marines across the face and back with his riding crop (R 85) and beat him severely over the head with the loaded end of the riding crop, because he did not move fast enough (R 86). Marine Pfc. Bragg was working on the construction of a rifle range. The accused told him he wasn't working fast enough, and then had him stand at attention for 20 minutes, and struck him with his fist about eight or ten times (R 88-89). Marine Sgt. Schulze was beaten at Woosung prisoner of war camp by the accused on three occasions, the accused striking him in the face and head with his fists and with a riding crop, causing laceration and bruises (R 90). Marine Pfc. Silverlieb was beaten on the head and shoulders by the accused with a leather quirt (R 91) because "there was not enough dirt in the car" which he and Cpl McFiggins and Pfc Vaughn were pushing. The latter two Americans were also beaten by the accused (R 91). U.S. Navy enlisted men Reece, Conaway and Herbert were also beaten by the accused. Reece was struck across the ear while working at the rifle range with resulting permanent injury (R 92); Herbert had a medical certificate for light duty, but the accused tore it up and slapped his face with his open hand and with his closed fist while being ordered to stand at attention (R 93). Conaway had a medical certificate for a bad heart, but the accused tore it up and beat him in a manner similar to that of Herbert (R 93). Marine Corporal Blahuta was beaten by the accused because he did not salute the accused (R 95).

The accused would beat the prisoners of war and whip them with a quirt without any provocation (R 94). The accused would make a tour of the camp every morning after all working parties had left and if he found a prisoner who had a rest slip due to illness, he would beat the prisoner with his riding quirt or with his fists (R 98). The accused would beat the prisoners for "playing cards in the barracks" (R 95), for not having enough dirt in the carts at the rifle range (R 95) and even for "receiving too much mail" (R 96).

The accused at his own request testified in his own behalf (R 110). He reaffirmed the written statement which he signed on 3 January 1946 (Ex. #40, R 108-110, 111). He was a civilian attached to the army as interpreter (R 110), and "acted" as though he were camp manager (R 110) although his position was equivalent to that of Sergeant Major (R 111) and a Lt. Matsui actually was the camp manager (R 111). It was the policy of the camp officers that there be no mistreatment of war prisoners, and when his superiors found that he was mistreating prisoners they told him to stop (R 108). The acts of mistreatment were his own and were not dictated by his superiors (R 108). In January 1944 he "beat and slapped" and then beat with a riding whip and gave the "water treatment" to the following: "Dr. Foley, Sgt. Minick, Sgt. Stowers, Sgt. Bishop, Civilians Bergman, Finckney, Lam and Sgt. Stone" (R 108). He gave the water treatment to Minnick six times (R 108). He covered the face with a towel and poured until the water got into the lungs as evidenced by choking and gasping (R 108). He recognized that the "water treatment" was cruel (R 108). He beat Lt Huizenga "with a stick or branch of a tree, until he fell unconscious" (R 109). He hit Lt McBrayer three or four times with hand or stick (R 109), and at the rifle range he would beat the prisoners, sometimes three or four at a time (R 109). He hit Capt Climie "five or six times" with his hands because of disrespectful remarks towards civilian interpreters (R 109), and he slapped Sgt Ketner



and also hit him with the blunt edge of his sword (R 109). He does not know the names of all the prisoners that he hit (R 109). He "was the worst one in camp as far as physical mistreatment is concerned" (R 110). He "did not hit or slap with the generosity or kindness" (R 113). He assumed to act as camp manager because the intelligence of the Japanese camp officers was lower than his (R 11). He gave the "water treatment" to Sgt. Schick "two or three times" (R 116).

#### 4. DISCUSSION:

The accused was charged with committing cruel and inhuman and brutal atrocities against American prisoners of war in that he (1) beat such prisoners with his fists, struck them with a leather riding crop, and subjected them to torture by pouring water into their mouths and nostrils until they suffocated and were rendered unconscious; (2) beat with his fists and struck with an unsheathed saber and flashlight an American prisoner of war; (3) struck an American prisoner of war with a wooden timber until he was rendered unconscious, and then continued to club and kick said prisoner after he had fallen to the ground in an unconscious state; and (4) beat an American prisoner of war and then forced him to stand at attention for five hours in the hot sun without medical attention, all in violation of the Laws and Customs of War (R 10-11).

The acts charged constitute "war crimes" and the individual perpetrating these acts is designated as a war criminal. Violation of the laws and customs of legitimate warfare as well as violation of the principle of criminal law generally observed in civilized States constitute war crimes, and the person who in his official capacity is guilty of these violations is a war criminal. (Oppenheim, Int. Law (Lauterpacht, 6th rev. ed.) p. 451).

International law acts to limit arbitrary actions against prisoners of war and their property by the detaining state. In another sense, the rules of international law act as guarantees of certain minimum rights. Restrictions have been recognized upon the assessment of arbitrary disciplinary and criminal judgments of the detaining state over the personal property of the prisoners and over their relations with the world outside the internment camp (Flory, Prisoners of War, p. 88).

Therefore, it has been universally recognized that prisoners of war are in the power of the enemy power, but not of the individuals or bodies of troops who capture them. They must at all times be treated with humanity and protected, particularly against acts of violence, insults, and public curiosity. Measures of reprisal against them are prohibited (C.P.W., art. 2; FM 27-10, sec. 73; Wheaton's Int. Law, 7th ed., p. 179). All forms of corporal punishment of prisoners of war, and all forms of cruelty whatsoever are prohibited (FM 27-10, sec. 119; C.P.W., art. 46).

The matter of punishment is definitely prescribed and limited by the provisions of the Rules of Land Warfare and the Geneva Prisoner of War Convention (FM 27-10; Malloy, Treaties, Vol. IV, p. 5224). Arrest is the most severe summary punishment which may be imposed on a prisoner of war (FM 27-10, sec. 127; C.P.W., art. 54). Disciplinary punishment must not be awarded by persons other than the officer commanding the camp or detachment or by the responsible officer acting as his deputy (FM 27-10, sec. 132; C.P.W., art. 59). The Japanese Government agreed to abide by the Geneva Prisoner of War regulations (R 17).

The evidence is legally sufficient to support the findings and sentence of the Commission. The acts of sadistic cruelty perpetrated by the accused against the helpless American prisoners of war violated that code of social justice on which people of many different races, tongues, and political beliefs have agreed in the name of their common humanity. The tortures to which the accused subjected these innocent victims of war definitely branded him as a war criminal and subjected him to such punishment as the Military Commission saw fit to impose (Oppenheim Int. Law (Lauterpacht, 6th rev. ed.) p. 451).

The accused was a civilian interpreter, but he assumed to act like a Camp manager, despite the fact that Lt. Matsui was designated as Camp manager (R 110-111). He had no authority to administer any punishment to prisoners of war (R 101) and he had no authority to physically beat any prisoners of war (R 102). When Col. Odera, camp commander,

ascertained that accused was using the "water treatment" on prisoners, he put a stop to it (R 104). The camp commander issued regulations governing the camp, and he personally informed the accused thereof (R 103). The accused willfully and deliberately perpetrated a series of sadistic cruel and inhuman atrocities against American prisoners of war, over whom he had neither command authority, nor disciplinary power (R 47, 102, 110-111). He usurped powers not delegated to him and the atrocious treatment accorded to the American prisoners of war violated the very conscience of civilized humanity. His testimony before the Military Commission presents a definite scheme to assault brutally helpless victims of the war (R 108-118). No excuse or cause appears for these wanton cruelties imposed by the accused on his victims. The beatings, cruelties and tortures were not limited to any particular period of time but were extended throughout the two and one half years that the accused was in a position to inflict them.

The defense entered a "special plea" questioning the jurisdiction of the Commission to hear the case because of lack of extraterritorial rights (R 14), which plea was denied by the Commission (R 14). The ruling of the commission was proper and in accord with established law, since extraterritorial jurisdiction applied only to citizens of our own country (Hyde, Int. Law, 849-850, 854; Biggs, The Law of Nations, 282; Hinckley, American Consular Jurisdiction in the Orient, 86, 115; In re Ross, 140 V.S. 453).

No substantial rights of the accused were prejudiced by the denial of the foregoing motion or the denied motion of the defense to restrict the use of affidavits as evidence. The use of affidavits is authorized by the Regulations governing the trial of war criminals in this theater (Reg., Hq. USF CT, dtd 21 Jan 1946, sec. 16) and has been approved by the U.S. Supreme Court in the Yamashita case.

5. CLEMENCY:

None of the five members of the Trial Commission recommended clemency, nor did counsel for the defense make any request for clemency. Under the facts and circumstances in this case, the extreme penalty, death, could have been imposed by the Commission. The sentence is appropriate to the offense with this office constrained to recommend that clemency be not extended.

6. OPINION: It is the opinion of this office that:

- a. The Military Commission was legally constituted;
- b. The Commission had jurisdiction of the person and the offenses;
- c. The evidence supports the findings of guilty;
- d. The record discloses no errors injuriously affecting the substantial rights of the accused; and,
- e. The sentence is legal.

7. RECOMMENDATIONS: It is accordingly recommended that the sentence be approved and ordered executed.

8. ACTION: Under the authority granted by the Joint Chiefs of Staff you are empowered to approve and execute any sentences adjudged. An action designed to carry the above recommendations into effect should they meet with your approval is submitted herewith.

/s/ Edward H. Young  
EDWARD H. YOUNG  
Colonel, JAGD  
Theater Judge Advocate



s/ Paul J. Driscoll  
PAUL J. DRISCOLL  
Major, JAGD  
Assistant Theater Judge Advocate

s/ Jacob I. Isaacs  
JACOB I. ISAACS  
1st Lt., AUS  
Assistant to the Theater Judge Advocate

Reproduced from unsigned copy, Hq China Service Command, 19 August 1946.

*Sylvio L. Bousquin*  
SYLVIO L. BOUSQUIN  
Lieut. Colonel, AGD  
Adjutant General

HEADQUARTERS  
UNITED STATES ARMY FORCES  
CHINA

APO 971  
5 May 1946

In the foregoing case of Isamu Ishihara, Civilian Interpreter,  
Armed Forces of Japan, the sentence is approved and will be duly  
executed.

Ward Road Jail, Shanghai, China, is designated as the temporary  
place of confinement until such time as a permanent place of con-  
finement is designated by competent authority.

*A. C. Gillem, Jr.*  
A. C. GILLEM, JR.  
Lieutenant General, U. S. Army  
Commanding.