

an opportunity to make his defense. State vs Coomer, 105 Vt. 175, 163A.585, 94 A.L.R. 1038."

Because of lack of proof of the acts alleged and because there has been showing by the prosecution that the acts alleged are crimes we ask that the Commission find as to the accused, Captain Yoshii, specification 4 of the second charge not proved and the accused Captain Yoshii is of the second charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the fourth specification of the second charge.

Specification 5, Charge II, joins Commander Yoshii and Lieutenant Matsushita and charges them with acting jointly and in pursuance of a common intent, did each and together prevent the unlawful burial of a prisoner, Vaughn, by mutilating and improperly removing and causing to be removed the flesh and viscera of the body and thereby violated the laws and customs of war.

There has been no evidence to show that Commander Yoshii was in any way connected with the incident. Even the co-defendant Lt. Matsushita, on the stand as a witness in his own behalf, said that he heard that Captain Yoshii was being charged with connection with the incident and we liked Captain Yoshii, or words to that effect. Lt. Matsushita said he removed the liver on orders of Lt. Kurasaki. He only removed the liver and not any flesh.

The prosecution elected to charge that this was in violation of the laws and customs of war. We assume that the violation is of Article 76 of the Geneva (Prisoners of War) Convention of 27 July 1929. This convention is binding only on sovereign states and not on individuals. If we are to punish the individual, then it must be because he violated some law of Japan or of the United States. What statute has been violated?

Because the evidence does not establish the facts alleged to have been committed by Commander Yoshii and because the prosecution has failed to prove the commission of a crime, we ask that the Commission find as to the accused Captain Yoshii specification 5 of Charge II not proved, and the accused Captain Yoshii is of the second charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the fifth specification of the second charge.

In specification 12 of Charge III Commander Yoshii is charged with neglect of duty in that he failed to control Ensigns Masutani and Hayashi and allowed them to kill a prisoner, Dye, this in violation of the laws and customs of war.

The testimony of Masutani and Hayashi was offered by the defense in order to show that they were ordered by their co-defendant, Commander Yoshii to do the substantive act. Under Specification 2 of Charge I all three are charged with substantive offense. We rely on the rules of evidence found in Wharton's Criminal Evidence, Vol. 2, par 714. "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". Citing: Logan

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vs United States 144 U.S. 263, 36 L. ed. 429, 12 S. Ct. 617; Brown vs United States, 150 U.S. 93, 37 L. ed. 1010, 14 S. Ct. 37; Sorenson vs. State (C.C.A. 8th) 143 F.820; Goll vs United States (C.C.A. 7th) 166F 419; Hauger vs United States, (C.C.A. 4th) 173 F. 54; Morrow vs United States (C.C.A. 8th) 11F (2d) 256, 7 Am. Bankr. Rep. (N.S.) 744; Lane vs United States (C.C.A. 8th) 34 F (2d) 413; Collonger vs United States (C.C.A. 7th) 50F (2d) 345, writ of certiorari denied in 234, U.S. 654, 76 L. ed. 554, 52 S. Ct. 33; Minner vs United States (C.C.A. 10th) 57F. (2d) 506; Dendagarda vs United States (C.C.A. 10th) 64F. (2d) 182; United States vs White 5 Cranch, C.C. 38, Fed Cas. No. 16-675.

In Jarrell vs Com 132 Va 551, 110 S.E. 430, it was held that the admission against the defendant, of a statement by a co-defendant charged jointly with the defendant who was on trial for murder was error. This is the rule that applies to specification 2, Charge I, as well as to this specification 12 of Charge III.

As we have stated before, the prosecution has failed to show by any ruling case at law that the laws and customs of war imposed upon Commander Yoshii a duty to control and restrain the officers of his command.

We ask, therefore, that the Commission find as to the accused Captain Yoshii the specification 12 of the third charge not proved and the accused Captain Yoshii is of the third charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the twelfth specification of the third charge.

Specification 13 of Charge III charges Commander Yoshii neglected his duty to properly protect a prisoner in that he neglected to take steps to prevent the killing of the prisoner Dye. This is charged to be in violation of not only the laws and customs of war but also the moral standards of civilized society.

All that was said regarding specification 12 of Charge III is repeated as regards this specification. We also feel that the prosecution should eloct to stand on either the offense being in violation of the laws and customs of war or the moral standards of civilized society.

As to the moral standards of civilized society, we hold that there has been no showing by the prosecution that there was a duty imposed upon Commander Yoshii by moral standards of civilized society or what these moral standards of civilized society were.

Therefore the Commission should find as to the accused Captain Yoshii the specification 13 of the third charge not proved and the accused Captain Yoshii is of the third charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the thirteenth specification of the third charge.

Specification 14 of Charge III charges Commander Yoshii with neglect of duty as Commanding Officer of the Yoake Wireless Station, and Senior Officer Present at the scene of an execution, to control Lieutenant Kurasaki and Ensign Koyama and other persons unknown in that he permitted them to kill in his presence a prisoner, Vaughn, this in violation of the laws of war.

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In specification 6 of Charge I, Commander Yoshii is charged with killing the prisoner by acting jointly with the two officers, and in this specification, he is charged with failing to restrain and control them. As we said in our argument on specification 6, of Charge I, there has been no evidence introduced to show that Commander Yoshii was at the scene of the execution.

There has been no evidence to show that either Lieutenant Kurasaki or Ensign Koyama were at the time or ever under the control of Commander Yoshii. The burden of proof is upon the prosecution and they must definitely establish this fact. The prosecution must further show that it was the duty of the Commanding Officer of the Yoake Wireless Station to control the two officers who were attached to a seagoing outfit.

The prosecution did not elect to stand on Commanding officer of wireless station but added Senior Officer Present. They have failed to show what duty, if any, a Japanese Communication Officer has regarding control of other officers who are not even attached to his command or if there is anything like the term Japanese Senior Officer Present. Failing in that, they leave the inference by argument that our navy imputes certain duties upon the Senior Officer Present. Our Navy Regulations do impose certain duties on the senior officer present as stated in Chapter 21 and also in Article 150. I fail to find however, that the duties of Senior Officer Present in our Navy are anywhere set forth as regards an execution of a prisoner of war.

The court was asked to take judicial notice of the Hague Convention but it does not follow that the Commission can thereby bind the individual Japanese Naval Officer by the provisions of the Hague Convention or the Geneva Prisoner of War Convention.

For the above reasons the Commission should find as to the accused, Commander Yoshii, specification 14 of the third charge not proved, and the accused Captain Yoshii is of the third charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the fourteenth specification of the third charge.

Specification 15 of Charge III is practically the same specification as number 14 except here Commander Yoshii is charged with neglect of duty in that he failed to properly protect a prisoner of war and thereby the prisoner was killed. Thus he did suffer the prisoner to be killed in violation of the laws and customs of war.

We repeat all that we said about specification 14. For those same reasons and because there has been no evidence to show that Commander Yoshii had an affirmative duty to protect this prisoner, we ask the Commission to find as to the accused Captain Yoshii the fifteenth specification of the third charge not proved, and the accused Captain Yoshii is of the third charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the fifteenth specification of the third charge.

Specification 16, Charge III charges Commander Yoshii with neglect of duty as Commanding Officer of Yoake Wireless Station because he did not control Lieutenant

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(j.g.) Surgeon Sasaki in that he permitted Sasaki to prevent the honorable burial of a prisoner of war by mutilating the body of the prisoner Dye, and Yoshii thereby violated the laws and customs of war.

Specification 4 of Charge II charges Commander Yoshii with preventing honorable burial by removing and causing to be removed the flesh and viscera of the body of the prisoner, Dye.

The Co-defendant Sasaki took the stand and admitted he removed the liver but then sewed up the body. His declarations and admissions on the witness stand are of no effect as to Commander Yoshii because Wharton's Criminal Evidence, Vol. 2, par. 714, page 1202 states: "When the common enterprise is 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".

In the same book, paragraph 700, "But if a statement made does not tend to prove the charge against the defendant who made the statement, but tends to prove the charge against his co-defendant only, the statement is objectionable as hearsay, and is admissible against neither". State vs Kennedy, 109 S.C. 141, 95 S.E. 350.

It is for the Commission to decide whether Sasaki, by removing the liver as he admitted, did thereby mutilate the body and thereby prevent the honorable burial of the prisoner.

The prosecution has failed to show that it was Commander Yoshii's duty as Commanding Officer of the Yoake Wireless Station to control Surgeon Sasaki so as to prevent the doctor from removing the liver from a prisoner of war. They have further failed to show that removing the liver prevents honorable burial. Finally, they have not shown this act was a violation of the laws and customs of war, and that Commander Yoshii was amenable to this law.

We ask the Commission therefore to find as to the accused, Captain Yoshii, the specification sixteen of the third charge not proved and the accused Captain Yoshii is of the third charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the sixteenth specification of the third charge.

Specification 17 of Charge III charges Commander Yoshii with neglect of duty as Commanding Officer of the wireless station and Senior Officer Present at the scene, to control Lt. Kurasaki and Surgeon Matsushita in that he allowed them to prevent honorable burial of a prisoner by mutilating the body of the prisoner Vaughn, and Yoshii thereby violated the laws and customs of war.

The co-defendant, Surgeon Lieutenant Matsushita took the stand at his own request as a witness in his own behalf and testified that he did remove the liver of the prisoner but only on the orders of Lt. Kurasaki who was his commanding officer. The co-defendant Matsushita testified he removed the liver for medical and research reasons, and that in his estimation, was a proper motive. He explained in detail how he washed the wounds and incisions and sewed them up, and that as a medical officer he was of the opinion that the body was properly prepared and

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and properly buried. All this he did on orders of Lieutenant Kurasaki.

There has been no evidence that Commander Yoshii issued any orders to Lt. Matsushita or that the surgeon was under his command. Several witnesses testified that the orders were given to the doctor by Lt. Kurasaki.

Because the prosecution has failed to offer evidence in support of the allegations and because they have failed to define in legal terms honorable burial, we ask that the Commission find as to the accused, Captain Yoshii, the specification seventeen of the third charge not proved, and the accused Captain Yoshii is of the third charge not guilty and the Commission does therefore acquit the said Captain Yoshii of the seventeenth specification of the third charge.

In specification 4 of Charge I Major Matoba is joined with General Tachibana, Captain Sato and Corporal Nakamura as a principal charged with the execution of a prisoner Hall.

What we said of General Tachibana is repeated in the case of Major Matoba. He was not at the scene of the execution and cannot therefore be held as a principal because there has been no evidence to show that Matoba participated directly in that substantive offense.

The co-defendant Sato did testify on the stand in his own behalf that he was ordered to carry out the execution by Major Matoba. But he stated that he changed the plans and never notified Major Matoba of the change or that there was to be an execution.

In addition, the testimony of an accomplice must be corroborated by other evidence which in itself and without the aid of the testimony of the accomplice tends to connect the defendant with the commission of the crime. Wharton's Criminal Evidence, Vol. 2, par. 728, page 1223.

This co-defendant had to admit on cross-examination that Major Matoba did not tell him personally to execute the prisoner nor did he report to Major Matoba that he was about to execute a prisoner.

There are statutory provisions to the effect that a conviction cannot be had on the testimony of an "accomplice" unless he is corroborated by other evidence which in itself, and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the crime, and in those states wherein the common law prevails, the judges generally caution juries against convictions upon the uncorroborated testimony of accomplices. The limitation of the testimony of an accomplice by statutes requiring corroboration thereof is designed for the protection of those accused; its purpose is to prevent one guilty of a crime from implicating another falsely in the hope of clemency, for motives of revenge, or for any other reason. (citing Carter vs State (Okla. Crim. Rep.) 28 P. (2d) 581.)

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In a jurisdiction where the testimony of an accomplice must be corroborated, the testimony of an accomplice alone is not sufficient for conviction. A state requiring the corroboration of the testimony of an accomplice ... prohibits a conviction thereon, unless so corroborated. If there is no corroboration after the admission of such evidence, the court should instruct that there can be no conviction based on such testimony. (citing People vs Negra, 208 Cal. 64, 280 p. 354; People vs Santos, 134 Cal. App. 736, 26 P (2d) 522; State vs Brown, 53 Idaho, 576, 26 P (2d) 131; State vs Rowley, 216 Iowa, 140, 248 N.W. 340; Fenner vs Comm. 240 Ky. 530, 42 S.W. (2d) 744.

Wharton's Criminal Evidence, Vol. 2, paragraphs 728 and 729, pages 1223 -1225.

As to the interrogatories and the proceedings of the Board of Investigation convened by the Commanding Officer, Occupation Forces, Bonin Islands, as evidence against Major Matoba we did object. All the rights of an individual guaranteed by the Fifth and Sixth Amendments to the Constitution were violated by the Board in the case of Major Matoba. Further, this accused, Major Matoba, was made to testify against himself when the proceedings, the interrogations, and statements of Major Matoba were allowed as evidence in this present case. This is in direct violation of the Fifth Amendment which states: no person shall be compelled in any Criminal Case to be a witness against himself.

Although we were overruled in our objection to the introduction of this evidence, we feel that it is proper in our closing argument and that we owe our client the duty of again respectfully calling the Commission's attention to this most important point which is not a mere technicality or rule of procedure but a substantial right guaranteed by the constitution.

In our objections to the charges and specifications, we objected to the matter in aggravation being pleaded in this specification. We ask that in arriving at your findings you strike all matter alleged to be in aggravation since it is mere surplusage and no authority has been cited for pleading such matter in aggravation of the offense of murder.

In making a further defense to this specification, I repeat what my colleague Mr. Morikawa has said, that Japan is not bound by Article 23 c of the Hague Convention No. IV of 18 October 1907, since neither Italy nor Bulgaria has ratified the 1907 Convention, although Japan did sign the Convention.

For all these reasons, we ask that the Commission find as to the accused, Major Matoba, the specification 4 of the first charge not proved and the accused, Major Matoba, is of the first charge not guilty and the Commission does therefore acquit the said Major Matoba of the fourth specification of the first charge.

In specification 5 of Charge I, Major Matoba is joined with Lt. (j.g.) Suyeyoshi, Imperial Japanese Navy, commanding officer of the Eighth Naval Antiaircraft Battery, a Naval installation, in pursuance of a common intent with Lt. (j.g.) Morishita (now dead) with assaulting, striking, and killing by beheading with a sword a prisoner, Mershon, and in aggravation Matoba did eat the flesh and viscera

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of the body, all this in violation of the laws and customs of war and the moral standards of civilized society.

The co-defendant Lt. Suyeyoshi, was put on the stand and he did testify against Major Matoba. This is but another instance of what the Judge Advocate said in his closing argument: that the defense was proving the case against themselves. So we must again remind the Commission as to the rule of evidence regarding testimony of accomplices and co-defendants. I am sure the Commission understands the rules of evidence regarding such testimony and particularly as it applies to a murder charge.

All that we said regarding the testimony of accomplices and co-defendants is again repeated as to this specification.

We emphasize: "When the common enterprise is at an end, ... 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, page 1202.

Just one other reference for emphasis: The admission against the defendant of a statement by a co-defendant charged jointly with the defendant who was on trial for murder is error, citing Jarrell vs Com 132 Va 551, 110 S.E. 430.

But the prosecution always use as their main proof and the evidence that convicts the accused, the record of the Board of Investigation, Bonin Islands. This record is indeed a sad commentary on American justice when we consider how this board knowingly and wilfully violated the rights of a defendant and did so state to all the world. Nevertheless the prosecution has seen fit to introduce the interrogatories, the statements and the proceedings of this board, and have asked this judicial Commission to accept such proceedings as evidence. This offer imposes upon this Commission a most difficult problem largely because in previous cases this Commission did allow the proceedings to come into evidence and so if for no other reason the Commission must, in order to be consistent, allow the interrogatories of the board to come into evidence in this case. We did object and were overruled, but I am sure the Commission will not hold us to be presumptuous to again reiterate our firm belief that the accused, Major Matoba, is being made to testify against himself and that he was not accorded the rights and privileges guaranteed by all persons who are tried in any of our courts.

We do not hold it to be ironical that such rights be accorded this accused and the other accused but rather that it will redound to the everlasting glory of these United States of America that we, the people of these United States, did see fit to accord even such as these accused all the rights and privileges of every American citizen. Ours is indeed a leadership that we can all be proud of, and I am sure that whatever the verdict, all the accused are and will still be greatly impressed with our sense of fairness and justice. The greater the contrast, the more impressive is our record.

We have previously stated our views regarding the commission of the acts alleged and in this case there has been no evidence to show that the accused Major

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Matoba did any of the acts charged or that he was present at the scene of the execution. Not even was Lt. Suyeyoshi at the scene. To hold Major Matoba guilty of murder is at variance with the evidence which the prosecution offered. Only on the evidence can there be a just conviction, and in this case there is no evidence which will convict the accused Major Matoba. The judge advocate has asked you condemn them on other than the evidence and as he said for what they have done. We ask you to judge them only as they are charged, which is the American way.

We objected to the matter in aggravation and yet we now can see why it was added to this specification. If it were not for this matter in aggravation, Major Matoba would clearly have had no connection with the murder. What is the proof of this matter in aggravation? The Convening Authority in his letter of August 19, 1946, stated that the specification 1 of Charge II is a completely different offense than the one set forth in specification 5 of Charge I. If this is correct, then the prosecution has indeed failed to prove the matter alleged in aggravation in Specification 5 of Charge I.

We ask therefore that you find as to the accused Major Matoba, the specification 5 of the first charge not proved and the accused, Major Matoba is of the first charge not guilty, and the Commission does therefore acquit the said Major Matoba of the fifth specification of the first charge.

The prosecution has stated in their closing argument that Charge II are violations of the Geneva and Hague Conventions which have been incorporated into international law. We refer the prosecution to the address given by Lt. Commander James J. Robinson, U.S.N.R. before the Joint Meeting of the Military and Naval Law Committees of the American Bar Association and the Federal Bar Association in the Cosmos Club at Washington D. C. on April 20, 1945. He said that Japanese accused of violations of the Geneva Prisoners of War Convention of 1929 would point out that Japan has not ratified or formally adhered to it. The mere fact that Japan has through the Swiss government agreed to observe these provisions would appear to make no difference. This was said by Robinson in April, 1945 and the prosecution should have heeded his advice in drawing up this specification. As I have stated before, this is a legal case and I but reiterate what my colleague, Mr. Morikawa and the warning that Lt. Commander Robinson gave to those drawing up specifications.

Even if the Commission hold that Japan is bound by this convention and that individuals are liable for violations of the provisions of this convention, and that this Commission has the power to punish such individuals, there is still the big question whether there is a crime alleged. Counsel for the defense, Lt. Commander Kickey, very clearly and logically covered this subject of honorable burial. Again the prosecution would have this Commission convict the accused, Major Matoba, on his confession and interrogatories before the Board of Investigation. By this time the Commission must also realize that such evidence cannot even be considered in a law court and to convict the accused on such evidence is reversible error.

The Commission should therefore find as to the accused Major Matoba, speci-

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cation 1 of Charge II not proved, and the accused Major Matoba is of the second charge not guilty and the Commission does therefore acquit the said Major Matoba of the first specification of the second charge.

Specification 3 of Charge II as it pertains to Major Matoba charges him with preventing the honorable burial of a prisoner, name unknown, by eating the flesh and viscera of the body, thereby violating the laws and customs of war and the moral standards of civilized society. About this particular incident there has been a great deal of evidence offered. Most of it was to the effect that Major Matoba did bring human flesh to the Navy Base Headquarters one afternoon.

We of the defense are very puzzled as to whether this is a crime. The prosecution are anxious to charge cannibalism but can find no legal basis for such a charge, therefore they state that it prevents honorable burial, which is provided for in Article 76 of the Geneva (Prisoners of War) Convention of 27 July 1929. This Article says: "Belligerents shall see that prisoners of war dying in captivity are honorably buried ..."

What we have said about this convention applying to individuals and that Japan is not bound by this convention, we repeat.

The prosecution has also seen fit to state that this is in violation of the moral standards of civilized society. If so, what is the penalty, and in what court must the offender be tried?

We feel that it is indeed unfortunate that the prosecution did not bother to get any law on cannibalism. We of the defense have been unable to find any. The Japanese counsel assure me there is no instance in all Japanese history of any cannibalism. The very thought of it is revolting to all peoples, yet we do know that people have been driven to such acts.

Just today we received a copy of the article on Cannibalism from the Encyclopedia Americana, Vol. 5, pages 502-503. We read from account the following regarding cannibalism: "CANNIBALISM, the act or practice of eating human flesh by mankind. The Greek word, anthropophagy (avapwnofayoc), coming down from pre-Christian times, indicates that the practice though unknown to Columbus, was ancient and well enough known to be in the literature of the older people. The story of Polyphemus devouring human flesh as told in the 'Odyssey', and other legends of semi-divine man-eaters is evidence enough that the ancient authors knew, by hearsay at least, of this practice. It is a well-established fact that all races of men have at some time, in a greater or less degree, been guilty of the practice of eating human flesh for one purpose or another. It is very generally believed, and with a good show of reason, that there never has been a time, since man first appeared, down to and including our own, when the world has been free from cannibalism. It is nearer being free from it now than it has been perhaps in all past time.. Today it exists among isolated South American tribes; in West Equatorial and Central Africa; in the Malay Archipelago, some of the South Sea Islands (mainly in Melanesia) and in parts of Australia. Excluding Australia cannibalism may be said to be

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confined to a belt of land extending to a little more than 10 degrees north and south of the equator.

"How far back the practice goes it is not possible to tell. So far as is known there is nothing to warrant the belief that the ancestors of the human species or the first of the human species ate one another. There is little if any evidence to indicate that down to as late a period as the close of the Old Stone Age the several races of men which had successively inhabited Euro-Asia and northern Africa practised cannibalism. Cannibalism is not universally characteristic of the savage state. A few charred and broken and scraped human bones from the cave-dwelling period are substantially all that has been found which can by any stretch of the imagination be supposed to hint at this practice. Tylor as far as the fact seems to warrant when he says that this evidence may "perhaps be taken to show that prehistoric savages were in this respect like those of modern times neither free from cannibalism nor universally practising it". Cannibalism originates in and is carried on from widely different motives, ranging all the way from eating human flesh as a regular part of daily subsistence to the eating of it for purely magical or ritualistic reasons. It is not possible to draw a dividing line between the several kinds because all or nearly all forms are more or less interrelated. This may arise from the fact that usually the practice does not begin in a single motive.

"AS A MEANS OF SUBSISTENCE.-...Under great stress of hunger occasioned by shipwrecks, sieges and famines, civilized persons have been driven to the eating of human flesh. The siege of Samaria about the middle of the 8th Century B.C. (11 Kings vi, 24 ff); the siege of Paris in 1590; and the famine in Algiers in 1868 furnish instances of this. What civilized people are driven to do by the pressure of hunger it is not surprising that the savage should do with even greater readiness under similar circumstances. Many savage races have resorted to cannibalism only in times of famine. The Mangerra tribe in Queensland in times of severe famine "Kill and eat some of their female children". The natives of Tierra del Fuego, when starving in winter, "throttle and devour the oldest woman of the party. When asked why they did not kill and eat the dogs, they reply 'Dogs catch otters'".

"AS MANIFESTATION OF AFFECTION.- Incredible as it may seem, cannibalism in some instances seems to be prompted by affection. The Bindowars of Central India killed and ate the sick and aged "Thinking this an act of kindness and acceptable to the goddess Kali". The aborigines of southwest Victoria practise eating human flesh in solemn service of mourning for the dead, particularly for those killed by accident. "The Tangara carry their dead about with them and whenever they feel sorry for their death, they eat some of the flesh till nothing remains but the bones." Among still other peoples, parents partake of the flesh of their dead children as a "token of grief and affection for the deceased". The practise of eating flesh for the purpose of honoring dead kinsmen is of a similar character. Herodotus, writing of the Massagetae, a Scythian people living in the northeast of the Caspian, relates that when a man has attained a great age among these people it is the custom for his kinsmen to sacrifice him, boil his flesh with the flesh of cattle and eat it. This is accounted an exceedingly happy ending. Lyden describes a cannibalistic custom which has the appearance of a very pious ceremony. The aged and infirm invite their descendants to eat them. The victim ascends a tree around which the others assemble singing a funeral dirge: 'The season is come, the fruit is ripe, and it must descend'. He then descends, and is put to death and eaten in a solemn banquet.

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"AS A RITUALISTIC PRACTICE.- Cannibalism as a religious institution is one of the most widespread and persistent forms of the practice and it ranges all the way from almost a passable refinement to the most revolting orgies. The religious purpose is not always the same. In some instances it is due to a desire, as among some Australian tribes, who make a practice of eating their totems, to become identified with the totum of god. In other cases the desire is simply to establish a close bond of friendship between the flesh-eating god and themselves. The people who offer human sacrifices to the god eat of these sacrifices, believing that by so doing they directly and surely become possessed of the divine virtues supposed to proceed from such sacrifices. With the Khonds it was the custom for a girl representing the goddess Tari to be sacrificed and torn limb from limb by the worshippers eager to obtain a piece of the defied victim. Cannibalism as a purely religious exercise among people possessing a high degree of culture is best and most notoriously illustrated by the Mexican custom of offering human sacrifices to the god Huitzilopochtli. "The victims were enemies or slaves and were offered before images of the gods. The priest cut open the breast with an obsidian knife, tore out the heart and offered it to the gods; then he sprinkled his assistant and the offers with the blood. After this a cannibal feast on the body took place, priest and offerers partaking." Early writers say these cannibalistic sacrifices reached yearly into thousands. To obtain rain from the rain-god Quiaoteot, children and adults were sacrificed to him and his images were sprinkled with their blood.

"AS MAGIC AND MEDICINE. - One of the most varied forms of cannibalism is that originating in the belief that by eating human flesh or certain parts of the human body very important advantages would be gained....The Botocudos ate an enemy to render themselves invulnerable against the arrows of the hostile tribe. Among some people at the founding of a new town a human victim was slain and the heart and liver eaten by all present so that they might not die within the year. In I Kings xvi 34, is reflected a survival of a similar custom. The idea that the eating of human flesh endows the eater with distinctly magical or supernatural powers is frequently met with in the savage world. In East Central Africa it is quite generally believed that the uncanny powers supposed to be possessed by witches and wizards are obtained by the feeding of the latter upon human corpses. From this comes, naturally enough, the belief that whoever feeds on human flesh will have the power of witches and wizards.

"Not infrequently cannibalism has arisen from an almost uncontrollable passion for revenge, and a savage belief that eating an enemy is the surest way of bringing about his lasting disgrace. The ferocious natives of New Caledonia do not consider that revenge is complete until they have devoured the slain.

"OTHER MOTIVES.-There are several other motives leading to cannibalism more or less distinct from those mentioned. Among some peoples the flesh of a fallen enemy was eaten after the fight by both contending parties as a token of entering into a binding covenant of peace....Cannibal practices are of almost infinite variety and perhaps all, except where human flesh is eaten simply as food, have their root in a superstitious view of life and the world. Naturally the practice has been disappearing before the progressive enlightenment of the world, and even the tribes

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who are still guilty of eating human flesh as good are increasingly ashamed of it, very often carrying on the practice in closely guarded secrecy.

"The bibliography of the subject covers a multitude of publications. Articles on anthropology and ethnology in journals devoted to such subjects will yield much information; also the narratives of travel and adventure by well-known explorers of early and later times. A few might be mentioned simply as suggestions: Weeks, 'Among Congo Cannibals'; Frazier, J. K., 'Totemism and Exogamy'; Stanley, H.M. 'In Darkest Africa'; Landor, W.S., 'In the Forbidden Land'; Rennie, 'My Adventures Among South Sea Cannibals'; Dennys, 'Folklore of China'."

In II Kings, Chapter 6, we read of the siege of Samaria by Benhadad, king of Syria. There was a great famine in Samaria and Israel was indeed in sad straits. We quote verses 26 to 30.

"26. And as the king of Israel was passing by upon the wall, there cried a woman unto him, saying, Help, my lord, O king.

"27. And he said, If the Lord do not help thee, whence shall I help thee? Out of the barn floor, or out of the wine press?

"28. And the king said unto her, What aileth thee? And she answered, This woman said unto me, Give thy son, that we may eat him today, and we will eat my son tomorrow.

"29. So we boiled my son, and did eat him; and I said unto her on the next day Give thy son, that we may eat him: and she hath hid her son.

"30. And it came to pass, when the king heard the words of the woman, that he rent his clothes; and he passed by upon the wall, and the people looked, and, behold he had sack cloth within upon his flesh."

We only bring this incident to the attention of the Commission because the prosecution have been unable to find any law or penalty for cannibalism. We too have been unable to find any law on this subject.

The above recorded incident is more heinous than any that happened on Chichi Jima. And yet it is not stated that the king of Israel did punish the woman. Will the prosecution not agree that Cannibalism was against the moral standards of the Israelites, and yet no penalty was inflicted or punishment imposed? Why? We sincerely wish that we knew the answer.

Until the prosecution can show a crime was committed we ask that the Commission find as to the accused, Major Matoba, specification 3 of Charge II not proved, and Major Matoba is not guilty of any crime and the Commission does therefore acquit the said Major Matoba of the third specification of the second charge.

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In specification 6 of Charge II Major Matoba is again charged with preventing honorable burial of the prisoner Hall by removing and causing to be removed and eating the flesh and viscera of the body.

This is an offense in violation of Article 4 of the Geneva (Red Cross) Convention of 27 July 1929 and Article 76 of the Geneva (Prisoner of War) Convention of 27 July 1929. See the letter dated 19 August 1946 from The Commander Marianas Area to the President, Military Commission.

As we have stated previously, the theory is that the state and not the individual is liable for violations of the laws of war.

What was said regarding specification 3 of Charge II applies equally to this specification.

We therefore ask that the Commission find as to the accused Major Matoba, specification 6 of Charge II not proved and Major Matoba is of the second charge not guilty, and the Commission does therefore acquit the said Major Matoba of the sixth specification of the second charge.

Specification 18 of Charge III charges Major Matoba with neglect of duty as Commanding Officer to control certain persons now on trial in joinder with the accused Matoba in that he permitted them to kill Hall and Morshon. In Specifications 4 and 5 of Charge I Matoba is charged with having committed the crime with these same individuals. Lt. Commander Dicky has ably brought out the inconsistency of so charging these accused.

If there was a duty to control them the prosecution must show such a duty. The burden of proof is upon the prosecution and we hold that there has been no showing of any such duty, therefore there was no neglect.

In this case the accused Matoba was not at the scene of execution and could not have controlled any of the participants. The accused, Captain Sato, testified that he made the arrangements and only notified Major Matoba after he had executed the prisoner. As we have said before, there is no precedent for condemning one for failing to act.

In view of the absence of any proof of a duty owing we ask that the Commission find as to the accused Major Matoba specification 18 of Charge III not proved and the Commission does therefore acquit the said Major Matoba of the eighteenth specification of the third charge.

In specification 19 of Charge III Major Matoba is charged with neglect of duty to properly protect prisoners Hall and Morshon. This specification says in different words what was alleged in specification 18 and there is no grounds for such a charge unless it can be shown there was a duty at the time alleged.

Major Matoba was not present at either scene and he did not know the executions were about to take place.

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What was said in specification 18 is applicable in this instance and therefore we ask the Commission to find as to the accused Major Matoba specification 19 of the third charge not proved and that the Commission does therefore acquit the said Major Matoba of the nineteenth specification of the third charge.

Specification 20 of Charge III charges Major Matoba with neglect of duty to control Lt. Sato, Dr. Toraki, and Sergeant Mori in that he permitted them to unlawfully prevent the honorable burial of two prisoners Hall, and one not definitely known but believed to be Marshon by mutilating their bodies, thereby violating the laws and customs of war.

As we have said before this charging of an Army officer with failing to act is most unprecedented. The prosecution must show a duty imposed upon Major Matoba because he was Commanding Officer of the 308th Battalion and the prosecution has not brought out any evidence as to what his duties as Commanding Officer were. Neglect of duty is an omission rather than act. Section 105, Naval Courts and Boards says: "A duty may be imposed by a law, regulation, order, or custom of the service in force at the time of the commission of the offense."

Mr. Justice Rutledge said of the Yamashita case "Much less have we condemned one for failing to take action....I have not been able to find precedent for the proceeding in the system of any nation founded in the basis principles of our constitutional democracy, in the laws of war or in other internationally binding authority or usage".

The prosecution have failed to reconcile the charging of this and other accused with committing an offense and then in another specification with failing to act.

Specification 1 of Charge II and specification 6 of Charge II charge Major Matoba with preventing honorable burial.

Because of all these reasons we ask that this Commission find as to the accused Major Matoba specification 20 of the third charge not proved and the Commission does therefore acquit the said Major Matoba of the specification 20 of the third charge.

Specification 21 of Charge III charges Major Matoba with neglect of duty in that he allowed Captain Nakajima to beat to death with a stick a prisoner, name not definitely known but believed to be Frazier, this in violation of the laws and customs of war.

The other specifications relating to neglect of duty are without much basis but this specification is without any basis whatsoever. Let us look at the facts as brought out by the witness Captain Nakajima who has already been condemned to die for this most atrocious crime. He testified as to a party and how he got drunk and left the party and while very drunk did beat the prisoner to death. Now the prosecution are attempting to hold the Commanding Officer responsible for the acts

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and the crime of this drunken officer. They fail utterly to show any duty in this instance or any general rule which makes the Commanding Officer of a military unit responsible for the acts of a drunken officer. There may even be some doubt as to the responsibility of the drunken officer for his own acts but the Commission has found him guilty. Surely they cannot impute his guilt upon Major Matoba.

We ask therefore that the accused Major Matoba be found not guilty of specification 21 of the third charge.

Specification 22 of Charge III is practically the same specification as 21, only specification 22 charges Major Matoba with neglect of duty in that he failed to protect a prisoner by failing to take steps to prevent the killing by beating to death with a stick a prisoner, name not definitely known but believed to be Frazier and he, Matoba, through neglect and failure, did suffer the prisoner to be killed in violation of the laws and customs of war.

What has been said regarding specification 21 is repeated as to this specification. As in that specification, so in this specification, there has been a failure by the prosecution to show a positive duty on the part of Major Matoba as Commanding Officer of the 308th Battalion to protect the prisoner and that the steps he did take were inadequate. What the prosecution are attempting to do is to impute the acts of Captain Nakajima upon Major Matoba. They can find no basis at law for any such holding and therefore say, well it ought to be so anyway. The Commission however, are trying this case according to law and will therefore find as to the accused Major Matoba, specification 22 not proved and the accused Major Matoba is of the third charge not guilty and the Commission does therefore acquit the said Major Matoba of specification 22 of Charge III.

As to Admiral Mori, Kunizo. He is charged under specification 3 of Charge II jointly with Major Matoba and Second Lieutenant Isogai and each and together as unlawfully preventing the honorable burial of a prisoner of war by eating the flesh and viscera of the body and thereby violated the laws and customs of war and the moral standards of civilized society.

We repeat the same arguments as heretofore made regarding honorable burial. As is stated in Court Martial Order 12-1925, "For an act to be unlawful it must have been committed in violation of some law, regulation, or order in force at the time of the commission of the act; if there be no law, regulation, or order prohibiting the act a mere statement of unlawfulness cannot create an offense.

We have searched in vain through the law books and the statutes, international law, and the laws of war, and nowhere do we find such acts prohibited by law. In the case of Dithmar and Boldt instituted under German law of March 24, 1920, Reichgesetzblatt, 1920, p. 341, the court states: "The fact that his deed is a violation of international law must be well known to the doer, apart from acts of carelessness, in which careless ignorance is a sufficient excuse".

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In this instance there is evidence which clearly shows that Admiral Mori did not know he was eating the flesh of the body of a prisoner of war. He was tricked into eating it and then told it was human flesh. We hold therefore that there was no intent to eat human flesh and no intent to unlawfully prevent the honorable burial of a prisoner of war, name to the relator unknown.

Three persons are charged with having or ch and together at the Navy Base headquarters unlawfully prevented honorable burial of a prisoner of war by eating the flesh and viscera. The prosecution do not even attempt to show who the prisoner was, or do they offer any evidence that he was not buried. They only show that Major Matoba came uninvited to the Navy base headquarters and brought what the officers thought was goat meat. He was drunk and in order to humor him, the Admiral ate of the meat which the Major had brought. Then the Major said it was human flesh and left, having accomplished his purpose. We again refer to the case of U.S. vs Sall, 116 F. 2 cd. 745, cited in 66 S. Ct. 1180.

The specification further alleges this is in violation of the moral standards of civilized society. We feel that the accused is not fully aware that this is in violation of the moral standards of civilized society and that proof should be made by the prosecution that the accused did have knowledge of the moral standards of civilized society which he violated when he ate something which he was told was goat meat.

In Major Matoba's confession, wrung out of him by the Board of Investigation which we objected to as being improper as evidence because the Board itself as a part of the proceedings admitted that the procedure was not in accordance with Section 734, Naval Courts and Boards, and which we still maintain to admit as evidence is prejudicial to the substantial rights of Major Matoba and in this instance the substantial rights of Admiral Mori, and also in direct violation of the Fifth and Sixth Amendments of the Constitution and thereby reversible error, Major Matoba believes Admiral Mori knew it was human flesh. This confession of Major Matoba is the only evidence and is inadmissible and is far outweighed by other testimony which is competent.

In Chapter 25 of Leviticus, verse 91 makes this statement: "And ye shall eat the flesh of your sons, and the flesh of your daughters shall ye eat". In Deuteronomy 28 God describes the curses for disobedience and tells of the besieging of all Israel and that as a result he says in verse 53: "And thou shalt eat the fruit of thine own body, the flesh of thy sons and of thy daughters, which the Lord thy God hath given thee, in the siege, and in the straitness, wherewith thine enemies shall distress thee".

We are at a loss first to know if this was a sin and second, if a sin, whether the prosecution does impute knowledge of this to the accused, Admiral Mori. We hold not.

What is the reason for charging Admiral Mori with neglect of duty arising out of this same incident if he were a willing participant with the requisite knowledge as is done in Specification 11 of Charge III?

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As we have seen before when it comes to individual who violate the laws and customs of warfare, international law, as the Hague Convention, neither courts nor punishments are provided. The accused can only be punished under the law of his own or our American laws.

In view of all this we ask the commission to find as to the accused, Admiral Mori specification 3 of the second charge not proved and the accused Admiral Mori is of the second charge not guilty and the commission does therefore acquit the said Admiral Mori of the third specification of the second charge.

In specification 6 of charge III Admiral Mori is charged with neglect of duty in violation of laws and customs of war. Of this charge we can say as did Mr. Justice Putledge in the General Yomoyuki Yamashita Petitioner case: "This trial is unprecedented in our history. Never before have we tried and convicted an enemy general for action taken during hostilities or otherwise in the course of military operation or duty. Much less have we condemned one for failing to take action, I have not been able to find precedent for the proceeding in the system of any nation founded in the basic principles of our constitutional democracy, in the laws of war or in other internationally binding authority or usage.

- - - It is not in our tradition for anyone to be charged with crime which is defined after his conduct, alleged to be criminal, has taken place; or in language not sufficient to inform him of the nature of the offense or to enable him to make defense. Mass guilt we do not impute to individuals, perhaps in any case but certainly in none where the person is not charged or shown actively to have participated in or knowingly to have failed in taking action to prevent the wrongs done by others having both the duty and the power to do so."

Evidence has been introduced which proved that Admiral Mori had no disciplinary control over the persons named, Commander Yoshii, Ensign Masutani and Ensign Hayashi. Commander Yoshii was the commanding officer of the wireless station and the two Ensigns were junior officers under the Commanding Officer, Commander Yoshii. The radio station was an independent command as we know commands and Admiral Mori exercised no disciplinary control over the officers and men attached to that station.

The Admiral is in this specification charged with neglect of duty in that he permitted and allowed the aforesaid persons to unlawfully kill one whose name is to relator not definitely known, but believed to be one Mershon. In specification 5 of Charge I Major Matoba, Lt (jg) Suyeyoshi acting jointly with Lt (jg) Morishita now deceased, are charged with this murder of Mershon. This specification 6 of Charge III however does not name any of these three officers.

In view of any showing by the prosecution that Admiral Mori had a legal duty to control and restrain Commander Yoshii, Ensign Masutani and Ensign Hayashi we ask the commission to find as to the accused Admiral Mori specification 6 of the third charge not proved and the accused, Admiral Mori is of the third charge not guilty and the commission does therefore acquit the said Admiral Mori of the sixth specification of the third charge.

For the very same reasons we hold that Admiral Mori has not been proved guilty of the offense charged on Specification 7 of Charge III. It has been shown that the Army not the Navy exercised control over prisoners of war on Chichi Jima and further that Admiral Mori did call the attention of all Navy commands on Chichi to this arrangement. Further that, on or about February 15, 1945, the battle of

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Iwo Jima started. Admiral Mori had a very heavy responsibility in the defenses of Chichi Jima and if he had neglected this duty he would surely have been derelict and subject to court-martial.

We ask the commission to find as to the accused Admiral Mori, specification 7 of the third charge not proved and the accused, Admiral Mori is of the third charge not guilty and the commission does therefore acquit the said Admiral Mori of the seventh specification of the third charge.

Specification 8 of Charge III charges Admiral Mori with neglect of duty in that he failed to control Commander Yoshii, Surgeon Lt. Sasaki, Lt. Kurasaki, now deceased, and surgeon Lt. Matsushita in that he permitted the aforesaid persons to unlawfully prevent honorable burial of two American prisoners of war by mutilating the bodies of Dye and Vaughn, thereby violating the laws and customs of war. For the same reasons and particularly as Justice Rutledge said in the Yamashita case Mori's guilt is not imputed to individuals where the person is not charged or shown active to have participated in or knowingly to have failed in taking action to prevent the wrongs done by others, having both the duty and the power to do so.

Admiral Mori did not participate in these offenses, did not know of them, did not have a duty to take action to prevent them nor did he have the power to prevent these wrongs.

In view of these facts we ask the commission to find as to the accused, Admiral Mori, specification 8 of the third charge not proved and the accused, Admiral Mori is of the third charge not guilty and the commission does therefore acquit the said Admiral Mori of the eighth specification of the third charge.

In specification 9 of Charge III the mass guilty of both Army and Navy personnel is imputed to Admiral Mori and yet he is not shown to have actively participated in or knowingly to have failed in taking action to prevent wrong doing by others, having both the duty and the power to do so. He is charged only because according to our custom and regulations the senior officer present has certain general duties as laid down in Chapter 21 of Navy Regulations. However Article 175 of these same Navy Regulations reads: "No officer can place himself on duty by virtue of his commission or warrant alone."

It is not enough for the prosecution to charge the accused Admiral Mori with neglect of duty as Commander of Army and Naval Forces and senior officer present on said island. They must prove that he had a duty to perform to control and to restrain the persons named. This they have not done, but on the other hand the defense has clearly shown that it was the duty of the Army to question and to carry out such regulations as the Japanese Army had regarding prisoners of war on Chichi Jima.

We ask the commission therefore to find as to the accused Admiral Mori, specification 9 of the third charge not proved and the accused Admiral Mori is of the third charge not guilty and the commission does therefore acquit the said Admiral Mori of the ninth specification of the third charge.

Specification 10 of Charge III is to all purposes the same charge as alleged in specification 9. In this specification number 10 Admiral Mori is charged with

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neglect of duty that he failed to protect prisoners of war because he failed to take steps to prevent unlawful killing of three prisoners of war, Woellhof, one whose name is to relator unknown, and one whose name is not definitely known but believed to be York.

It has been proved that Admiral Mori did not know of these executions until after the end of the war, and no showing has been made by the prosecution that he should have known they were taking place but quite to the contrary it has been shown that the Army by agreement on August 20, 1944 would be in charge of questioning, internment, etc. of all prisoners of war on Chichi Jima. It has also been shown that the persons alleged to have killed the prisoners of war were all Army personnel who by no stretch of the imagination can be said to be subject to the control of Admiral Mori. Since they were not subject to his control he could in no way prevent them from acting in an unlawful manner and certainly therefore the guilt of these persons cannot be imputed to Admiral Mori.

We ask the commission to find as to the accused, Admiral Mori, specification 10 of the third charge not proved and the accused Admiral Mori is of the third charge not guilty and the commission does therefore acquit the said Admiral Mori of the tenth specification of the third charge.

Specification 11 of Charge III charges Admiral Mori with failure to discharge his duty as Commander Naval Forces on Chichi Jima in that he failed to control Major Matoba and Second Lieutenant Isogai by allowing and permitting them to unlawfully prevent the honorable burial of a prisoner of war name unknown by eating the flesh and viscera of the body of said prisoner in Admiral Mori's presence, this in violation of the laws and customs of war and the moral standards of civilized society.

Major Matoba and Second Lieutenant Isogai were not subject to Admiral Mori's control; Isogai was not even at the scene when Major Matoba is alleged to have eaten; what was eaten was first said to be have been goat meat and the proof is not clear whether it was flesh or liver; and what was eaten was but a small amount no larger than about a one inch-cube which is certainly not the flesh and viscera of the body of the prisoner.

The prosecution can cite no case showing that such an act constitutes dishonorable burial. They fail to even identify the prisoner of war or to offer any evidence that he was not buried. It is axiomatic that the burden of proof is upon the prosecution and that it never shifts therefore the prosecution must prove dishonorable burial in this case. We maintain that eating a small portion about one cubic inch in size and that when Major Matoba had said it was goat meat does not constitute preventing the honorable burial of an American prisoner of war.

We cite the address of Lt. Commander James J. Robinson before joint meeting of the Military and Naval Law Committees of American Bar Association and the Federal Bar Association at Washington, D.C. on April 20, 1945 in which he defines a war crime:

"A war crime is an act forbidden by the law of war and committed in any place in time of war by a person who is connected or acting with a belligerent nation and who acts with intent unlawfully to injure a person or property or government

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connected with ~~an~~ opposing belligerent nation or with a neutral nation. The penalty is determined by the court in its discretion and may extend to the death penalty unless otherwise provided by law."

The prosecution has failed to show any intent on the part of Admiral Mori and the charge must therefore fail.

As we have stated before the mere assertion that there is an offense in violation of the laws and customs of war does not make it an offense. Proof is necessary and the prosecution has offered no real proof.

The nebulous phrase "moral standards of civilized society" has been studiously avoided and we of the defense have no idea what is legally meant by moral standards of civilized society. We further add the question, "what is the punishment provided for a violation of the moral standards of civilized society?"

We ask the commission to find as to the accused, Admiral Mori, specification 11 of the third charge not proved and the accused, Admiral Mori is of the third charge not guilty and the commission does therefore acquit the said Admiral Mori of the eleventh specification of the third charge.

In conclusion we charge that the prosecution has failed to define murder in time of war; they have failed to define honorable burial; they have cited not a single case on either honorable burial or cannibalism. They have failed to show by convincing evidence the duty which they have charged that these accused have neglected.

We respectfully remind the commission that these accused are being tried according to American law for war crimes. The law under which they are being tried is well established; it is the military law of the American Navy and is based upon and is fundamentally the same law as applies to every American citizen. All that this commission is asked to do is to apply the law as it pertains to this present case. This will not be easy but we know that this commission is most capable and will therefore find according to rules of law and the evidence in the case.

The judge advocate has asked the commission to condemn these fourteen accused in the light of what they have done but we ask that they be judged on what they are charged as having done and then if a crime has been properly charged, and the evidence is sufficient and the charge is proved beyond a reasonable doubt then and only then should any of these accused be found guilty. We hold that the prosecution has failed to prove their case against Lt. General Tachibana, Vice Admiral Mori, Captain Yoshii and Major Matoba.

The prosecution has been very bitter in their statements particularly of Admiral Mori. They have referred to him as the senior officer of the Bonin Islands knowing full well that Chichi Jima was only one island of the Bonin group and that both the Army and the Navy on Chichi Jima were subordinate units and that the Army Division Headquarters was at Iwo Jima and the Navy Headquarters were at Yokosuka. Both General Tachibana and Admiral Mori were subordinates to these headquarters commanders and took their orders from the above headquarters commanders, General Kuribachi and Vice Admiral Mada.

The prosecution has charged eight murders on Chichi Jima and have asked that of the accused be found guilty, that the sentence be capital punishment. We request

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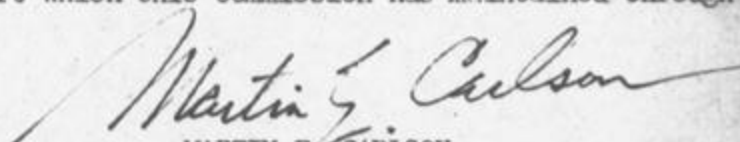
particularly as to the accused whether capital punishment of the guilty is in harmony with scientific criminology and penology. On pages 38 and 39 of the little booklet "What Shall be done with War Criminals EML-G-1 Roundtable" prepared for the United States Armed Forces Institute by the American Historical Association August 1944 we read:

"In the United States we regard every offender as an individual. His assets and liabilities are studied and a program is planned to make the most of his abilities, develop new ones, curb his bad habits, and gradually restore him to a useful and law abiding place in society. - - - They could be studied by psychiatric clinics, however, so that we might learn what made these men defy the laws of civilization - - - We might learn a great deal about international gangsterism if we knew what made these men tick."

We feel that it is altogether fitting and proper that we close our argument with the words of Mr. Justice Rutledge in his dissenting opinion in the Yamashita case. We feel as he did in that case as to the accused in this case: More is at stake than the fate of these fourteen accused. There can be no possible sympathy for them if they are guilty of the atrocities charged. We quote: "But there can be and should be justice administered according to law. In this stage of war's aftermath it is too early for Lincoln's great spirit, best lighted in the Second Inaugural, to have wide hold for the treatment of foes. It is not too early, it is never too early, for the nation steadfastly to follow its great constitutional traditions, none older or more universally protective against unbridled power than due process of law in the trial and punishment of men, that is, of all men, whether citizens, aliens, alien enemies or enemy belligerents. It can become too late."

This long held attachment marks the great divide between our enemies and ourselves. Theirs was a philosophy of universal force. Ours is one of universal law, albeit unperfectly made flesh of our system and so dwelling among us. Every departure weakens the tradition, whether it touches the high or the low, the powerful or the weak, the triumphant or the conquered. If we need not or cannot be magnanimous we can keep our own law on the plane from which it has not descended, hitherto and to which the defeated foes never rose."

As we now finish our argument we personally and for all the Defense Counsel express to this commission our sincere thanks and appreciation for the judicial procedure and dignity of a law court which this commission has maintained throughout the entire trial.


MARTIN E. CARLSON,
Commander, USNR

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CLOSING ARGUMENT FOR THE PROSECUTION

DELIVERED BY

FREDRIC T. SUSS

Lieutenant, USNR.

Gentlemen, we are assembled here in the name of justice. We are here to proclaim that justice is not the prerogative of one nation or of one people but is the sacred and inviolable right of every individual, however obscure or exalted or in whatever remote corner of the world he may be found. Upon this principle we have builded a nation. Although that nation has grown to be a formidable power, her people have never lost sight of the fact that she owes her very existence to the defiance of the tyranny of power.

We are not a nation of moralists but we have observed that government may learn from religion. Christianity has taught us of the dignity of man and the sacredness of the individual. This spirit is found in our laws and proclaimed in our courts. This is what we demand for our people and this is what America extends to others.

We do not seek revenge, for revenge is not justice. We do not repeat the mistakes of the fallen enemy. We do not punish the innocent. The people of the United States demand justice even for the lowest form of human being.

In accordance with these traditions the accused have been given a fair and a just trial, the like of which has never been seen in their native land. They have been allowed six defense counsels of their own choosing. Our officers have been sent on costly journeys to seek out evidence for their defense. Witnesses have been brought here at the expense of the government to testify in their behalf. We have extended to them the protection of our laws and indeed we have gone beyond the limits of the law to expand for them the rights of cross-examination.

And to whom have we accorded such fair and impartial treatment? To the people who have torn and mutilated the living bodies of our defenseless brothers in the most primitive and barbaric fashion. What more terrible indictment can there be than to accord to these inhuman savages a fair and a just trial? There is a more terrible indictment. It is the procession of witnesses who have come before this court. The officers and men who have served with and under the accused. Their voices surpass the language barrier and still ring clearly and accusingly in this courtroom. Voices long hushed by cruel power and now crying out for justice. How shall a man face the indictment of those with whom he has faced death together?

These witnesses have no personal gain to seek from their testimony. They are going home to a crushed and broken Japan. They have experienced at first hand the cruelty and viciousness of the Japanese military and this is the warning they are carrying home to their people who are struggling to build a respected nation over the ashes of their ill-advised, military-dominated empire.

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They have seen the ambitious Japanese military infect their country like a dangerous disease and spread with cruelty as the deadly plague over Asia and the Pacific. The accused stand before you as typical representatives of this diabolical evil force. Their trail of blood and broken bodies has been traced through Manchuria, China and Singapore to Chichi Jima.

Now we shall attempt to answer some of the arguments of defense counsel.

Much has been said about intent and malice aforethought. Let us look at the definitions of these.

WILFULY is defined as intentionally. In an indictment charging a wilful killing, it means intentionally and not by accident. It is synonymous with intentionally, designedly, without lawful excuse, and, therefore, not accidentally. A wilful act is one that is done knowingly and purposely, with the direct object in view of injuring another.

MALICE AFORETHOUGHT. In the description of murder the words do not imply deliberation, or the lapse of considerable time between the malicious intent to take life and the actual execution of that intent, but rather denote purpose and design in contradistinction to accident and mischance; and the intent necessary to constitute malice aforethought need not have existed for any particular time before the act of killing, but it may spring up at the instant and may be inferred from the fact of killing.

We do not deny that Chichi Jima naval units came under the Yokosuka Naval Base. On the contrary we have presented evidence to prove this, along with evidence that Vice Admiral Mori came under the Yokosuka command as the Commander of the Bonin Area. We fail to see how this relieves him of responsibility. Rather it strongly emphasizes this responsibility.

Defense Counsel has argued that we are charging the accused with our ideas which are exactly opposite to theirs. We are not prosecuting these defendants on our ideas alone. We are prosecuting these defendants on universal ideas which were adopted and shared by the Japanese over 39 years ago when Japan was a party to the Hague Convention.

We found the defense counsel's learned dissertation on Japanese culture most interesting and it was a pleasant diversion from the serious aspects of this case. Much was said about the Japanese military code of honor called Bushido; which of these defendants will deny that he has disgraced the honor of Bushido?

We cannot ascribe these crimes to the culture of the Japanese people for this is a calumny against a nation, teeming with modern industry and thoroughly familiar with western business, moral and educational ideas.

The Japanese criminal code expressly prohibits the same crimes for which these defendants have been tried. The Japanese authorities themselves do not claim that murder and cannibalism are excusable by some exotic culture which the western mind cannot fathom.

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No conceivable culture, no matter how ob'use can justify murder. If this is the philosophy of the accused then our reply is that we are here to decry, to declaim and to destroy such a culture.

Defense counsel has contended that this commission cannot decide what is an honorable burial. That is precisely what this commission is convened to decide. That man of genius or that great mathematical mind is needed to decide that it is a dishonor and a shameless travesty on a dead body to remove 16 pounds of its flesh for cannibalism.

What honest surgeon can ever again without remorse of conscience apply his scalpel to a human body, living or dead when he is haunted by the spectacle of having publicly removed the liver of a dead man to turn it over to cannibals? Does defense counsel seriously contend that this is honorable burial? We think not. Which of us would consider his son honorably buried if his body was savagely bayoneted before interment? The question of honorable burial, gentlemen, is no great philosophical problem. Indeed we fail to see a problem at all.

Defense counsel has attacked the validity of the Board of Investigation. The proceedings of this board have been officially approved and admitted in evidence. This legal document can in no way be altered by oral testimony. In some instances you have heard defendants apologize for statements made before the board, and point out that they were excited or ill when they made them. Then they proceed to say the same thing on the stand which they said to the board. It has also been shown that every witness who appeared before the board was given opportunity to submit voluntary statements. These statements have in no instance denied the testimony of the interrogation. On the contrary they have corroborated each other. We do not concede to defense counsel any right to attack this legal document but we merely point out the absurdity of such ill-considered attack.

Some circumstantial evidence has appeared in this case and it is well to say a word about such evidence. Naval Courts and Boards Section 144- Circumstantial evidence is not an inferior or secondary kind of evidence. It is frequently better than direct evidence. Its weakness lies in the fact that circumstances may be very strong against an innocent man. In a case depending on circumstantial evidence the court, in order to convict, must find the circumstances to be satisfactorily proved as facts, and must also find that these facts clearly and unequivocally imply the guilt of the accused and can not reasonably be reconciled with any hypotheses of his innocence.

It has been deplored in this court that the conqueror sits in judgement on the conquered. We have only to quote Justice Jackson when he said:

"However unfortunate it may be, there seems no way of doing anything about the crimes against the peace and against humanity except that the victors judge the vanquished. Experience has taught that we can hardly expect them to try each other".

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Again we might quote Justice Jackson on the doctrine of obedience to orders when he said:

"With the doctrine of immunity of a head of a state usually is coupled another - that orders from an official superior protect the one who obeys them. It will be noticed that the combination of these two doctrines means that nobody is responsible. Society as modernly organized cannot tolerate so broad an area of irresponsibility".

Counsel for ten of the accused early in his argument stated that he would not go into the legal aspects of the case. That was the truest statement in his argument. He went on to discuss the legal technicalities of trial in joinder and his argument was truly non-legal when he deplored the trial in joinder of a general and a private for the same crime. If you couldn't have a joinder there you could never have a trial in joinder in any case. Murder and atonement of justice are no respecters of rank. Ignorance of the law is no excuse. This maxim is older than any present civilization.

This non-legal argument also went into the legal problem of causation. It was contended that when two men strike separate blows with swords, only one is guilty of murder. This argument is reduced to its merited absurdity when we take another example. When three men shoot three bullets into a man's body does the law stop to inquire which bullet caused death? Who will contend that all three are not guilty of murder?

Defense counsel has seen fit to advise the court in his confessedly non-legal argument that a confession must be corroborated by independent evidence. We are sure that the commission has recognized the insufficiency of such a statement. It is well known to this commission that a conviction may be had on an extra-judicial confession and the only independent evidence needed in any jurisdiction is proof of the corpus delicti. This we have done in each case.

The accused Sato contends that except for the orders of his superior he would not have committed the crime of murder. But does the evidence substantiate this claim? The evidence shows that not only did he supervise and order the execution but maliciously caused Sergeant Mori to bayonet the dead body. Where is the evidence he was ordered to do this? This wicked and vengeful act displays for this commission with what vigor and enthusiasm, the defendant Sato plunged into a disgraceful task which he relished.

The accused Suyeyoshi contends that he gave the prisoner whiskey and cigarettes before ordering his execution. Shall we grant that this man has bought a license to murder with whiskey and a few cigarettes?

These atrocities were not committed in the heat of battle by irresponsible subordinates but they were deliberately planned by these officers here charged.

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The defense argues that during those critical days there was no time to protect and provide for prisoners of war. But there was time for huge sake parties and prolonged drunken orgies. There is time for long and deliberate planning of murders and flesh parties. But there is no time to issue a curt order to keep hands off prisoners.

The rules laid down by the Supreme Commander of the Allied Powers have been attacked by the defense as being in conflict with the articles of war. It has also been declared that the Supreme Court did not uphold these SCAP rules. Let us see what the Supreme Court said in that part of its decision which became the law of the land.

"The petitions in this case charged that in the course of the trial the commission received over objection by petitioner's counsel, the deposition of a witness taken pursuant to military authority by a United States Army Captain. It also, over like objection, admitted hearsay and opinion evidence tendered by the prosecution. Petitioner argues as ground for the writ of habeas corpus, that Article 25 of the Articles of War prohibited the reception in evidence by the commission of depositions on behalf of the prosecution in a capital case, and that Article 38 prohibited the reception of hearsay and of opinion evidence.

We think that neither Article 25 nor Article 38 is applicable to the trial of an enemy combatant by a military commission for violations of the law of war. Article 2 of the Articles of War enumerates "the persons.....subject to these articles," who are denominated, for purposes of the Articles, as "persons subject to military law". In general, the persons so enumerated are members of our own Army and of the personnel accompanying the army. Enemy combatants are not included among them.

.....By thus recognizing military commissions in order to preserve their traditional jurisdiction over enemy combatants unimpaired by the Articles, Congress gave sanction, as we held in *Ex parte Quirin*, to any use of the military commission contemplated by the common law of war The articles recognized but one kind of military commission, not two. But they sanctioned the use of that one for the trial of two classes of persons, to one of which the Articles do, and to the other of which they do not apply in such trials. Being of this latter class, petitioner cannot claim the benefits of the Articles, which are applicable only to the members of the other class. Petitioner, an enemy combatant, is therefore not a person made subject to the Articles of War by Article 2

It follows that the Articles of War, including Articles 25 and 38, were not applicable to petitioner's trial and imposed no restrictions upon the procedure to be followed. The Articles left the control over the procedure in such a case where it had previously been, "with the military command".

We do not contend that the Supreme Court passed on the wisdom or philosophy behind the SCAP rules but it is most apparent from the law just read that the Supreme Court upheld the right of General MacArthur to lay down such rules.

Counsel have devoted most of their arguments to statements that the prosecution has produced no evidence to substantiate the charges. Was counsel asleep when our witnesses paraded before this court for a whole month? Did

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counsel continue their slumbers when my able colleague talked for half a session summing up only the most damaging of our evidence?

Under the charge of Neglect of Duty counsel has argued that in one case knowledge of the murder came to the accused only after the event and therefore, he cannot be guilty of neglect of duty. May we ask from whence comes this strange theory of law? If it is true that the crime took place without the knowledge of the responsible commander is he not chargeable with neglect of duty because he should have known that such things were going on within his command?

When we prove his previous knowledge of the intended crime that increases greatly his culpability. But proof of such previous knowledge is not necessary to establish the crime of neglect of duty. This was clearly shown by my colleague.

It is so ridiculous to argue that a commanding officer does not have the power to control his own subordinates, that we shall not even answer that argument.

We have seen in this court a vice admiral of a world power stripped of all power and authority by his eager and thorough defense counsel and this top echelon man has been made to appear as helpless and powerless as a seamen second class whom no one noticed and who noticed nothing.

Counsel for the senior-officer defendants shift responsibility to junior-officer defendants and counsel for the junior defendants blame the senior defendants. Therefore, our case has not only been woven completely by us but it has been corroborated by defense counsel showing that all are equally guilty.

Defense counsel has argued that some of these defendants are improperly charged with participating in murders occurring in other units. The evidence shows that these officers in many cases participated in crimes committed in other units as well as in their own. That is precisely why these defendants must be tried in joinder.

The defense has argued that Admiral Mori has no responsibility except under battle conditions and that there were no battle conditions and such responsibility never arose. The defense also argues that all of these defendants must be excused because they acted under the strain of battle conditions. Who can make sense out of such anomalous argument?

Closing arguments must be confined to matters in evidence. Defense counsel has produced out of thin air the lame excuse that there were not enough air raid shelters to admit a few prisoners. Where does this appear in the evidence? The evidence shows time and again that Tachibana expressly prohibited air raid protection for the prisoners saying it was not necessary.

There has been abundant evidence that Tachibana ordered these executions. Evidence of Tachibana's own statements that he would have prisoners killed to

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boost morale has been called flimsy. What does defense counsel call concrete evidence?

The authorities cited by the defense are of a questionable nature. Minority and dissenting opinions are never intended as law. Neither are the opinions of club speakers. Defense counsel have cited the opinions of some Commander Robinson which can have no weight in a court of law. These are opinions of a guest speaker before a club made on April 20, 1945. Since then many trials have been held based on international conventions and decisions have been handed down by the Supreme Court in cases based on international conventions. Indeed the defense is desperately crawling at straws.

Defense counsel has deplored the damage that was done to the case for Yoshii by joining him with Masutani and Hayashi. Does defense counsel contend that three men may not be tried in joinder for the same murder? He could not do so seriously. We have not introduced the evidence of Masutani and Hayashi that Yoshii ordered the execution. This was offered by the defense.

The prosecution believes that it has proven its case beyond a reasonable doubt. If the commission finds there is a reasonable doubt it must be founded on evidence and not on a mere suspicion.

The laws of international convention upon which we base our case are clear and concise.

In Hague Convention No. IV of 1907 it is provided that:

"Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them. They must be humanely treated."

"It is especially forbidden - To kill or wound an enemy who, having laid down his arms, or having no longer means of defense, has surrendered at discretion."

"The same rules (as for soldiers of the national army) shall be observed regarding - - - the burial of prisoners of war, due regard being paid to their grade and rank".

Japan has ratified this convention as long ago as 1907 and is bound by its terms.

In the Geneva (Prisoners of War) Convention of 27 July 1929 it is provided that:

"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. Measures of reprisal against them are prohibited".

"Prisoners of war have the right to have their person and their honor respected.

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"Belligerents shall see that prisoners of war dying in captivity are honorably buried and that the graves bear all due information, are respected and properly maintained".

It is true that Japan did not ratify or formally adhere to this convention but soon after she had embarked on her treacherous war she was quick to announce that she agreed to apply the provisions thereof to prisoners of war under her control. She hastened to claim the humane rights and privileges of the convention for her captured nationals. Under what system of law do rights exist without corresponding responsibilities?

The government of Japan saw fit to recognize these responsibilities and she imposed them upon the officers of her army and navy. There has been abundant evidence before this court to show that the international conventions which bound the government of Japan in her relations with prisoners of war, were incorporated in the Imperial Japanese Army Handbook of Operations. We have before us a volume of the Imperial Japanese Navy Regulations which includes the Hague Convention.

We need not resort to the ancient legal maxim that ignorance of the law is no excuse. Is it unreasonable to charge officers of the Japanese army with knowledge of their own operational handbook? Is it unreasonable to charge Naval officers with knowledge of their own Navy Regulations? You now have before you the ridiculous spectacle of a vice admiral and a lieutenant general attempting to escape the responsibility of rules and regulations compiled and enforced by admirals and generals.

In his History of Criminal Law, Sir J.F. Stephen defines negligent offenses as follows:

"Everyone upon whom the law imposes any duty, or who has by contract, or by any wrongful act, taken upon himself any duty tending to the preservation of life, and who neglects to perform that duty, and thereby causes the death of (or bodily injury to) any person, commits the same offense as to intent or otherwise, which accompanied the neglect of duty". The negligence must be culpable. "An intentional omission to discharge legal duty always constitutes culpable negligence".

Five of the accused have been charged with neglect of duty. We have proven in each case an intentional omission to discharge a legal duty. This legal duty was imposed upon them by the laws of international conventions to which Japan chose by contract to bind herself and her officers. In order that this legal duty may be clearly and unmistakably imposed upon the officers and men of her army and navy, the government of Japan included these rules in the Army Operational Handbook and in the Navy Regulations and in addition to this the Japanese War Ministry issued a notification in March 1942, covering regulations for the Treatment of Prisoners of War. This document recognizes the obligations of international treaties and customs by stating as follows:

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"A prisoner of war, as defined in these regulations, is any enemy combatant who has fallen into the power of the Empire or any other person who is to be accorded the treatment of a prisoner of war by virtue of international treaties and customs."

"A prisoner of war shall be humanely treated and in no case shall any insult or maltreatment be inflicted upon him."

This, gentlemen, is Japanese law. It is not American law. It is not English law. It is Japanese law.

Now let us read from Japanese Navy regulations Article 105:

"In regards to a matter of international implication, the captain must especially strive to be prudent and absolutely must act within the limits of orders, regulations, and treaties. If the matter goes beyond those limits, he /the captain/ must request directions from his superior officers or else directly from the naval minister.

This Japanese-enacted law together with the international conventions cited above place upon the accused an incontrovertible, unmistakable and absolutely positive duty to refrain from killing, maltreating, and dishonorably burying prisoners of war and further to protect them against acts of violence.

The five accused charged with neglect of duty were all in command of units of Japanese armed forces, whom the evidence shows, they failed to restrain and control, in the commission of the crimes charged.

The most glaring case of neglect of duty has been shown to be that of the supreme commander of the island, Vice Admiral Mori. Several witnesses have testified to his official position on Chichi Jima as supreme commander. It also appears that he was the senior ranking officer of all services on the island. The evidence clearly shows that he acknowledged his position and responsibility on the island as senior ranking officer and commander in chief by calling a joint conference in 1944 and requesting the army to handle matters concerning prisoners of war. Since under Japanese War Ministry regulations prisoners of war were passed up the line until they reached internment in Tokyo, Admiral Mori, as a representative of the highest echelon on the island was quite correct in assuming such authority over prisoners of war. He was also completely justified as supreme commander to delegate this authority to General Tachibana. However, he could not drop the matter there. While he could delegate his authority, he could not shed his responsibility. This is elementary in any military organization.

The negligence of Mori is therefore most apparent. However, in order to charge him with the resulting crimes, it must be shown that his negligence was culpable. What degree of negligence may be culpable is for the commission to decide. But in any case the inflexible rule of law is that an intentional omission to discharge legal duty always constitutes culpable negligence. Thus while it was not necessary to prove an intentional omission to show culpable negligence,

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the prosecution has revealed in its evidence that Mori is guilty of such intentional omission.

Circumstantial evidence shows clearly that the supreme commander knew of the capture of prisoners of war and of their executions. The record shows that soon after the first execution in August 1944, in the same month, Mori called a joint conference to discuss prisoners of war and to provide for their disposal. Such evidence points vividly to one prominent and important fact. That as soon as the first prisoners were captured and executed the matter came to the attention of the supreme commander.

You have heard much evidence from the officers and men who appeared before this court, that the executions and even the cannibalism were common knowledge all over the island. You have heard evidence of cannibalism in the very presence of the Admiral and indeed by the Admiral himself. We have brought home to Mori cognizance of the facts that these crimes were being committed and his failure to even lift a finger to prevent them or their recurrence amounts to an intentional omission to discharge a legal duty.

We have shown this general knowledge under the rule of law stated in Wharton's Criminal Evidence, Section 481.

"Whenever it is material to bring home to a party cognizance of a particular fact, it has been held admissible, under certain circumstances, to show that such fact was at the time, generally known and talked about in the neighborhood where the party in question resided, or was a matter of common reputation in the business community to which both parties belonged. It is on this ground that proof of notorious usage has been received, as well as evidence of character, when character is introduced as charging another with notice".

We have proven Yoshii's general reputation as a murderer and a cannibal to charge Admiral Mori with such knowledge under this rule. We introduced such evidence only after we presented the independent evidence of Yoshii's crimes. This evidence of general reputation was not offered as evidence against Yoshii.

The knowledge and notoriety of these crimes are shown to be so widespread over the island that any attempt by the supreme commander to deny this knowledge would amount to a representation that he was a deaf mute with poor eyesight. Does it appear likely that a world power in the crucial years of a great war would entrust the command of a strategic group of islands to a deaf mute?

This unfortunate and unhappy admiral is now here because he did not deign to summon the great power which was his to command to prevent these crimes against humanity. A few words, a curt order from him would have saved the lives of six men. We cannot escape the evidence. No amount of tears, no ocean of petitions can wash away the wall of evidence that towers over him. We cannot escape the evidence.

The responsibility for such neglect of duty is well summed up by the United States Supreme Court in the recent case of Yamashita. Speaking for the court, Chief Justice Stone said in the part of the case which became law:

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"It is evident that the conduct of military operations by troops whose excesses are unrestrained by the orders or efforts of their commander would almost certainly result in violations which it is the purpose of the law of war to prevent. Its purpose to protect civilian populations and prisoners of war from brutality would largely be defeated if the commander of an invading army could with immunity neglect to take reasonable measures for their protection. Hence the law of war presupposes that its violation is to be avoided through the control of the operations of war by commanders who are to some extent responsible for their subordinates".

Justice Stone goes on to point out that the Annex to the Fourth Hague Convention of 1907, in Article 1 lays down as a condition which an armed force must fulfill in order to be accorded the rights of lawful belligerents, that it must be "commanded by a person responsible for his subordinates".

Each of the accused charged with neglect of duty was in command of an armed force and as such is responsible for his subordinates.

What defense has any of these accused advanced for their neglect of duty? Not a single defense has been forwarded. In the record of the defenses case there is an ominous silence where neglect of duty is concerned. This silence cannot be ignored. It is most significant in the face of so much damaging evidence brought forth by the prosecution.

What defense has Vice Admiral Mori forwarded for his neglect of duty? There has been a pitifully small amount of evidence produced for him and its value and indeed its competence is very doubtful. Let us see what it is.

Lieutenant Commander Shinoda has testified as to his opinion that Admiral Mori had no responsibility for the army forces on Chichi Jima and he goes on to name the whole list of army personnel involved in these crimes saying that Mori had no responsibility for them. On cross-examination it appears that Shinoda never even knew any of these people or to what organizations they were attached and he states that this imposing list of names was given to him by the defense lawyers. What kind of evidence is that?

Shinoda also testified that Mori had no authority over the Navy units on the island. They were all independent units over which he had no authority. Then what was Mori, the highest ranking officer on the island doing there. Perhaps he was there for a well earned rest, vacationing from his rigorous duties in China.

Not only is Shinoda's testimony ridiculous but it is a bare-faced attempt to invade the province of the commission to decide the issues in this case by opinion evidence.

You have heard repeated evidence in this court that Mori was the supreme commander on the island. You have heard evidence of acts done by him in that capacity. You have heard the evidence that when on March 23, 1945, Tachibana became supreme commander of the island, it was necessary to distribute written notices all over the island to show that Tachibana had replaced Mori. What more evidence can there be? We do not accept the paradox that legal responsibility should be the least where power is the greatest.

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And now let us consider the case against the terrible three. Tachibana, Yoshii, and Matoba. The startling evidence of their incredible crimes has taken us beyond the realm of imagination to the region of nightmare and horror. Who has dared to defend these unmitigated murderous cannibals? Not a shred of evidence has been offered in their behalf. Who can say a good word for these cruel jackals who feast upon the dead? A mountain of evidence is still rumbling in their ears. The accusing voices of their officers and men will haunt them through eternity.

These three together with Suyeyoshi have been shown by the evidence to have been principals in the crime of murder. A principal is defined in Section 332 (and perhaps we should apologize for this) of the United States Criminal Code as follows:

"Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsel, commands, induces, or procures its commission, is a principal.

Defense counsel have vigorously objected to this law claiming it is a law peculiar to the United States. Let us read from the Japanese criminal code:

"Article 60. - Two or more persons who have cooperated in committing a crime are (joint) principals.

The expression '(joint) principals' does not refer solely to those who have participated in the whole or part of the act forming an essential element of a crime. If several persons have conspired to carry out a crime and some of the conspirators have been induced to undertake the execution of the criminal act, those who have thus caused the criminal intention to be carried out are also (joint) principals.

Article 61. - A person who has instigated another to commit a crime shall be considered a principal.

The same applies to a person who has abetted an instigator."

It will be noted that a principal need not be at the scene of the crime. It is enough if he did any of the following things, committed the act himself, or aided, abetted, counseled, commanded, or procured its commission.

Let us read from the preface of the Japanese Criminal Code:

"The earliest known Criminal Code in Japan was the Daiho Ritsu, compiled at the beginning of the 8th century..... The first of the modern Criminal Codes was promulgated and enforced in 1870 as the Shinritsu Koryo (Outlines of the New Criminal Law).....The Japanese nation, however, ever crying for something new and more in keeping with modern European practices, was not contented until M. Beissac, the distinguished French jurist employed by the newly centralized Government of the Mikado, had completed a new Criminal Code based on the Code Napoleon of 1811. This Code was enforced as from January 1, 1882 and remained in force until superseded by the present code on October 1, 1908.....As its

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name implies, the Criminal Code is the basic law which defines crimes and provides punishments therefor. Its scope, however, is greatly increased by additional special laws and ordinances which are constantly being added to the great body of criminal enactments already existent." In the face of this, defense counsel would have us believe that the culture of Japan gives no quarter to law.

These four accused are charged in some instances with Murder and Neglect of Duty which resulted in murder. In each case both charges are founded upon the same incident. And in each instance there is sufficient evidence to warrant a finding of guilty on both the murder charge and the neglect of duty charge. If the commission believes the evidence substantiates the charge of murder as well as the charge of neglect of duty growing out of the same incident then the findings must be guilty on both charges.

In CMO 2-1932 it is stated that Negligence and wilfulness are the opposites of each other. They indicate radically different mental states.....It also quotes 24 SW 1015 where the court said: "If the killing was 'wilful' as charged in the indictment, then it could not have been accidental, or by 'culpable negligence'. The terms are inconsistent as they cannot both be true. If the killing was by culpable negligence, then it was not intentional."

It will be noted in that case that the indictment or specification charged that the killing was both wilful and negligent. This is obviously fatally wrong blending.

We have not charged in this case both wilful and negligent killing. It is not inconsistent to find that a commanding officer is guilty of murder for having directly participated therein and that he is on the other hand guilty of neglect of duty for failing to protect a person and for failing to restrain men under his command from killing that person. In the latter he is not found guilty of negligent killing but for neglect of duty in failing to protect and restrain.

Therefore, there is no inconsistency in findings of guilty on the separate charges of murder and neglect of duty.

CMO 11-1930.

Recent courts-martial cases published in Court-Martial Orders indicate the fact that no definite precedent has been established which prohibits conviction on one or more charges merely because they appear to have been based on the same act or omission (CMO 2-1930, p.3-CMO 3-1930,p.12).

It would be a grave error to acquit an accused on the charge of Neglect of Duty where it appears that the evidence substantiates the charges. As the law stated shows that an accused may be found guilty on two separate and distinct charges based on the same act or omission it would be no valid or legal reason to acquit a man for neglect of duty, merely because he was found guilty of murder growing out of the same incident.

The evidence clearly shows that these four accused were principals in the murders charged and must be found guilty of murder. The evidence also clearly shows that these four accused violated a positive duty to protect prisoners of

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war and a further positive duty to restrain members of their command from committing any violence against them and they must be found guilty of neglect of duty.

Charge III does not charge a negligent killing and is no way inconsistent with Charge I which is Murder, or wilful killing.

However, it may be argued that the neglect of duty in failing to protect a prisoner, or in failing to restrain subordinates in Charge III is a constituent element of the murder in Charge I. How could a commanding officer who has ordered the murder of a prisoner of war argue that he has not neglected his duty to protect that prisoner? He is obviously guilty of both murder and neglect of duty and then charged with each separately may be convicted on both. Then if it appears that the lesser charge is a constituent element of the greater, it becomes the duty of the convening authority to disapprove the findings on the less serious charge upon his taking action in the case. This is solely the duty of the convening authority because the commission could not find him not guilty of neglect of duty if the evidence showed the contrary.

CMO 1-1939.

Held that when the specification of one charge alleges merely a constituent element of the offense set forth under another charge and there is a finding of guilty on both, it is the duty of the convening authority to disapprove the finding on the less serious charge upon his taking action in the case.

All the rest of the accused have confessed to their parts in the crimes charged. In each instance the corpus delicti has been established and this taken together with a confession is sufficient to warrant a conviction. In most instances the confessions have been thoroughly corroborated by independent evidence.

Captain Sato has not confessed to ordering Sergeant Mori to bayonet the dead body of the prisoner of war which he executed. However, Sergeant Mori in his interrogation has confessed to the bayoneting and stated that it was done on orders from Captain Sato.

The confession of a codefendant is not admissible as evidence against the defendant. In Wharton's Criminal Evidence, Section 722, the following is stated:-

"The confessions or admissions made by a co-conspirator or codefendant after the termination of the conspiracy and in the absence of the defendant, are not, admissible against the defendant as substantive evidence to prove his guilt. His confession, therefore, subsequently made, even though by the plea of guilty, is not admissible in evidence, as such, against any but himself..."

However, under the Regulations Governing the Trials of Accused War Criminals promulgated by the Supreme Commander for the Allied Powers under Paragraph 5 (d) Section (1). The commission shall admit such evidence as in its opinion would be of assistance in proving or disproving the charge, or such as in the commissions' opinion would have probative value in the mind of a reasonable man.

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This leaves the admission of such evidence as against a codefendant to the discretion of the commission.

The only defense advanced by the accused is the claim that they were acting under the orders of their superiors. Such a defense is untenable and indeed is not a defense at all.

In the famous American case of *US v. Jones*, 3 Wash CC209, the court said, "We do not mean to go further than to say that the participation of the inferior officer in an act which he knows, or ought to know, to be illegal, will not be excused by the order of his superior".

This was upheld in CMO 4-1929 where the court said, "In reference to the contention of the accused that he was acting in the performance of duty, it is deemed pertinent to refer briefly to the law pertaining to homicide committed by persons in the military service. It is a general rule that a soldier (or sailor) is bound to obey all lawful orders, and all he may do in obeying such lawful orders constitutes no offense as to him. But an order illegal in itself and not justified by the rules and usages of war, or in its substance clearly illegal, so that a man of ordinary sense and understanding would know as soon as he heard the order read or given that it was illegal, will afford no protection for a homicide, provided the act with which he may be charged has all the ingredients in it which may be necessary to constitute the same a crime in law".

In CMO 121 of 1919 it was said, "A soldier is bound to obey only the lawful orders of his superiors. If he receives an order to do an unlawful act, he is bound neither by his duty, nor his oath to do it. So far from such order being a justification, it makes the party giving the order an accomplice in the crime".

Under international law it has also been held that an act in obedience to a military order of a superior is not justifiable when that act is known or under the circumstances should have been known, to be illegal under the laws and customs of warfare. This doctrine in international law is clearly demonstrated in the celebrated *Llandovery Castle Case*. This was not a case in our courts but is a German case. The Russians have used this case in war crimes trials to condemn the very Germans out of their own mouths. In this case the German Supreme Court, trying German defendants for the machine-gunning of open life-boats declared, "Military subordinates are under no obligation to question the order of their superior officers and they can count upon its legality. But no such confidence can be held to exist if such an order is universally known to everybody, including also the accused, to be without any doubt whatever against the law.....They should, therefore, have refused to obey. As they did not do so, they must be punished."

In the Mexican War case of *Mitchell v. Harmony*, Chief Justice Taney of the United States Supreme Court wrote, "It can never be maintained that a military officer can justify himself for doing an unlawful act by producing the order of his superior. The order may palliate but it cannot justify."

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There has been much solemnly said in this court about the doctrine of absolute obedience to orders in the Japanese military. Who is impressed by such dramatic abstraction? Certainly not the accused themselves. You have heard the testimony of Captain Sato who said that he had ordered Sergeant Furushika to behead the prisoner of war. When the time came for the execution Furushika was smart enough to hide and he could be found nowhere. He failed to carry out the order. He flagrantly disobeyed the order and you have heard from the defendant Sato that the disobedient Sergeant was not punished.

You have also heard the testimony of Captain Yamashita who testified that he ordered two men to bayonet a prisoner. They failed to do so and were not punished in any way. Yamashita says that since the order was not operational in nature it did not require absolute obedience. The two men just stood there openly at the scene of execution and refused to carry out the order.

The defendant Masutani took the stand to say that he had been continually disobedient to orders and was scolded for it. Then the defense calls to the stand a witness brought here from Tokyo to say that Masutani was always very obedient to orders. Masutani further testified that he carried out the order to execute a helpless prisoner of war because if he disobeyed it would hold up his promotion, and he would be disgraced in the eyes of the fleet. What a justification for murder.

Finally the Supreme Commander for the Allied Powers has provided that, "Action pursuant to order of the accused's superior, or of his government, shall not constitute a defense, but may be considered in mitigation of punishment if the commission determines that justice so requires."

"It has cost unmeasured thousands of American lives to beat and bind the war criminals". To permit them to escape justice would "mock the dead and make cynics of the living".

We have at last reached the moment of fulfillment of a solemn promise made by the allied powers to a shocked and suffering humanity. We have come down a long, bloody, heartbreaking road which can only be compared to the grueling death march of Bataan. A road whose mud is made of the terrible tears of courageous men. Let us not falter.

We are put under a heavy responsibility to see that the punishment given to war criminals will direct the world's conduct so as to make crimes during war less attractive to those who have governments and the destinies of people in their power.

Fredric T. Suss
Fredric T. Suss
FREDRIC T. SUSS,
LIEUTENANT, USNR.

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A witness called by the recorder entered, was informed of the subject matter of the investigation, was duly sworn, and declared as follows:

Examined by the recorder:

1. Q. State your full name, former rank, and organization.
A. Hayashi, Minoru; lieutenant (junior grade). I arrived on Chichi Jima on September 6, 1944. I was assigned to the Yoake wireless station. I held this post until the beginning of July, 1945; after which date I was transferred to the naval headquarters, and I stayed there until the end of the war.
2. Q. Who ordered you to execute the American flyer you beheaded in March, 1945?
A. I never heard about it.
3. Q. Did you strike the first blow on the flyer?
A. No, I never beheaded a man.
4. Q. Who did execute or behead the flyer?
A. I do not know.
5. Q. Was a flyer executed?
A. I never heard of it.
6. Q. Was there another officer at the Yoake wireless station by the name of Hayashi?
A. No, not a one (1).
7. Q. What were your nicknames? Was it "pretty boy" or "handsome"?
A. No, I never heard of it.
8. Q. What instructions did Commander Yoshii give you, regarding this execution?
A. Yes, I executed the flyer. I only lied because of instructions I received from the naval headquarters.
9. Q. What were those instructions and who gave them to you?
A. I received my orders from Commander Yoshii.
10. Q. What were the orders?
A. I was called out and told to behead the flyer.
11. Q. We want to know the orders given to you to lie about the execution; do you understand?
A. I was ordered by Admiral Mori.
12. Q. To the best of your knowledge, what were these orders?
A. The admiral said that the Army was assuming all details regarding the disposition of prisoners of war; that the Navy had nothing to do with it, and therefore I followed that policy to keep quiet.
13. Q. When did you receive these instructions?
A. I do not remember the date, it was at the end of the war.

CERTIFIED TO BE A TRUE COPY

C. L. Ford Lt. J. S. 1A. "Exhibit 1" (1)

706

0456

14. Q. Did the admiral know about the execution performed at the Yoake wireless station?
A. I cannot say if the admiral was aware of the execution or not.
15. Q. Did the admiral mention executions specifically when talking to you?
A. I do not remember.
16. Q. To the best of your knowledge, what was the date of the execution you performed?
A. I do not know or remember. It was sometime in March, 1945, but I do not remember the exact date.
17. Q. Who brought the prisoner to the Yoake wireless station?
A. I do not know. I never saw the man.
18. Q. From where was the flyer brought?
A. I do not know.
19. Q. How long was the flyer at the Yoake wireless station, prior to the execution?
A. Within one (1) week.
20. Q. Did the flyer live with Tamamura?
A. Yes, I believe so.
21. Q. What were Commander Yoshii's orders to you, regarding the execution?
A. Commander Yoshii told me the day previous to the execution, that I must behead the flyer.
22. Q. Did you object to this?
A. Yes.
23. Q. What did he say?
A. I told the commander that I did not want to behead the man.
24. Q. What did Commander Yoshii say?
A. I remember exactly that Commander Yoshii said, "You know what happens to an officer who refuses an order."
25. Q. What did you understand he meant by that?
A. I expected to be executed if I did not obey, or at least receive life imprisonment.
26. Q. Did Commander Yoshii say why the flyer was to be executed?
A. I do not know or never heard the reason behind this.
27. Q. On the day of the execution, did Commander Yoshii order all personnel to fall out?
A. Yes. I did not hear the order given, but all of the men fell out so it must have been given.
28. Q. What time of day did the execution occur?
A. Around 4 o'clock in the afternoon.

CERTIFIED TO BE A TRUE COPY "Exhibit 1" (2)

C. L. Field & Co. S. A.

307

0457

29. Q. What was the location of the spot of execution?
A. The execution was performed in front of the fuel storage building.
30. Q. Was a grave dug before the execution?
A. There was a grave or a hole there; if it was dug especially for the execution I do not know.
31. Q. When you arrived on the scene of the execution, what orders did you receive from Commander Yoshii?
A. On the day of the execution, I was told by Commander Yoshii that I had to perform the execution and therefore, when the time came, I was there. The commander called me out and said to behead the flyer.
32. Q. Where was the flyer placed for the execution, and in what position?
A. The prisoner was made to squat on the rim of the grave facing the building.
33. Q. Who placed him there?
A. That was Tamamura.
34. Q. Was the flyer blindfolded?
A. Yes.
35. Q. Did Commander Yoshii make a speech to the personnel?
A. I cannot recall.
36. Q. Was the flyer informed that he was to be executed?
A. I cannot say because when I came on the scene, the flyer was already standing by his grave blindfolded.
37. Q. What did you do after you received your orders from Commander Yoshii?
A. After I received the orders, I tried to behead the flyer but I failed. After I struck the blow, I dived among the crowd. I know that the body did not fall over, the flyer was still sitting.
38. Q. How far did you cut into the neck of the flyer?
A. I do not know.
39. Q. Who completed the execution?
A. Lieutenant (junior grade) Masutani completed the execution.
40. Q. Do you know whether your blow killed the flyer?
A. I do not know whether I killed the flyer or not, but I do not believe that the flyer died with this blow.
41. Q. Did the flyer make any outcry?
A. The flyer groaned.
42. Q. Did you see Lieutenant Masutani complete the execution?
A. Yes, I was back in the crowd and I saw Lieutenant Masutani complete the execution.
43. Q. Did Commander Yoshii order Lieutenant Masutani to complete the execution?

CERTIFIED TO BE A TRUE COPY

"Exhibit 1" (3)

S. L. Field *U.S.A.A.*

308

0458

A. Yes, Commander Yoshii ordered Lieutenant Masutani to behead the flyer.

44. Q. What did he say?

A. He just said, "Behead the flyer."

45. Q. Was this prearranged?

A. Commander Yoshii called Masutani and told him to behead the flyer. It might have been prearranged, but I do not know about it.

46. Q. Do you have anything else to add to your testimony, regarding the execution?

A. No.

47. Q. During the time that the prisoner was at the Yoake wireless station, was he beaten or mistreated in any way prior to the execution?

A. I did not see anyone mistreat the flyer, and I did not hear anything like that.

48. Q. When Admiral Mori instructed you not to mention the execution, was he talking to you personally or to a group of naval officers?

A. I forgot how I heard it. I was attached to the naval headquarters when I heard it. The admiral said that it was the policy given to everyone, but he did not tell it to me personally. I cannot remember whether Admiral Mori said this in a meeting or just what the occasion was.

49. Q. After Lieutenant Masutani completed the beheading of the flyer, did you see Doctor Sasaki dissect the flyer's body?

A. No, I left the scene of the execution together with Lieutenant Masutani. I did not see the doctor dissect the body.

50. Q. Did the doctor dissect the body?

A. I did not hear that. I never heard of the dissection.

51. Q. Was Doctor Sasaki stationed at the Yoake wireless station at this time?

A. He was not a member of the personnel at the wireless station, but he had an office near the wireless station, and he attended the needs of the personnel.

52. Q. Was he present at the execution?

A. There were many men present and I do not know if he was there or not.

53. Q. Were you present at the party that night given by Commander Yoshii when human liver was served?

A. Yes. I ate my supper at the same table as Commander Yoshii. I and the other junior officers did not drink and were not allowed to take too much sake. We had our meal and a drink or two (2) and then we left. I did not see any liver there and I think that the story is just a rumor. I do not know what happened after I left the party.

54. Q. How long were you at the party?

A. About thirty (30) minutes.

"Exhibit 1" (4)

CERTIFIED TO BE A TRUE COPY

E. L. Field *ALB. S. H.*

0459

55. Q. If the liver was not served, why did Commander Yoshii ask Doctor Sasaki to remove it from the body?
A. I have no idea what reason was behind the dissection.
56. Q. Then the body was dissected?
A. Yes, I heard a rumor that the body was dissected. I do not know by whom.
57. Q. Where did you go, after you and Masutani left the scene of the execution?
A. I went back to the officer's mess.
58. Q. What time of day did the execution take place?
A. Around 4 o'clock in the afternoon.
59. Q. What time did the party start?
A. It started around 5 o'clock.
60. Q. You and Masutani spent the time between 4 and 5 o'clock in your quarters?
A. Yes.
61. Q. What did you talk about?
A. We were cleaning our swords. I have no idea of what we were talking about.
62. Q. During that time, did anyone come into your quarters where you were cleaning your swords?
A. I do not remember, maybe there were some orderlies but I do not remember.
63. Q. Who left the party with you?
A. Masutani and myself both left the party together.
64. Q. Then all of the others officers remained?
A. All of the rest of the officers were present when I left. I do not know how long the other officers stayed with Commander Yoshii.
65. Q. What did you leave?
A. Because I do not drink. I am not a heavy drinker.
66. Q. Was the reason you left because you did not drink, or because Commander Yoshii had human liver served?
A. As far as I remember, nothing resembling liver was served.
67. Q. What was served?
A. I cannot remember.
68. Q. What did Commander Yoshii say to you for mishandling the execution?
A. Nothing.
69. Q. Did you hear the next day that human liver had been served at the party, and that Commander Yoshii was drunk and ordered everyone to eat it?
A. No.

"Exhibit 1" (5)

CERTIFIED TO BE A TRUE COPY

S. L. Field *U.S.A.R.*

310

0460

70. Q. Where was the party?
A. The party was held in the commander's room.
71. Q. Where was your room?
A. In the officers' mess, the general mess. I also had quarters in the air raid shelter.
72. Q. Where did you sleep that night?
A. In the air raid shelter.
73. Q. Was there a noncommissioned officers' party going on that night, on the second floor of the headquarters building?
A. I cannot say, I did not notice.
74. Q. Were Commander Yoshii's quarters on the lower or the second floor of the building?
A. On the lower floor.
75. Q. Wasn't there an air raid that night?
A. I do not remember exactly, but we were being bombed nearly every night around that time.
76. Q. Who was the supply officer at the Yoake wireless station?
A. Ensign Sudo.
77. Q. Isn't it true, that you heard Sudo say that it was the first time he had eaten human flesh?
A. My sleeping quarters in the air raid shelter were fifty (50) yards from the noncommissioned officers' quarters. I did not see Sudo that night.
78. Q. Did Commander Yoshii have any outside guests at the party that night?
A. I do not remember seeing any guests.
79. Q. How many guests did attend the party?
A. Only the personnel of the wireless station.
80. Q. How many were there?
A. Nine (9) or ten (10).
81. Q. Do you remember who they were?
A. Warrant Officer Chiba, Commander Yoshii, myself. Ensign Masutani, Ensign Watanabe, Warrant Officer Okubo, Warrant Officer Sudo, and Warrant Officer Asano were present. Lieutenant Sasaki was not present. *CLT*
82. Q. Did you hear that Commander Yoshii ate human flesh?
A. No. I heard that of the Army, but not of the Navy or of my unit.
83. Q. Was Commander Yoshii present, when a flyer was executed by the Torpedo Boat Squadron?
A. I do not know.
84. Q. Did you see any other American flyers at the Yoake wireless station?
A. No, and I never heard of any others being there.

"Exhibit 1" (6)

CERTIFIED TO BE A TRUE COPY

S. L. Field *LE W. A. R.*

311

0461

85. Q. What was the name of the flyer you executed?
A. I do not know and I never heard the name.
86. Q. Do you know of the execution at the Second Torpedo Boat Squadron?
A. I did not hear of an execution by the Torpedo Boat Squadron. I heard that Commander Yoshii had the liver cooked and put it on the table and told everyone to eat it. But while I was present, I did not see it.
87. Q. Did you discuss the matter with any of the officers who were present when the liver was served?
A. No.
88. Q. What was the source of your information?
A. I cannot recall just how I heard it, but I will try and think of it.
89. Q. Was the liver also served to the noncommissioned officers, who were also having a party?
A. I truthfully do not know if the noncommissioned officers had a party that night or not; but if they did, liver was served.
90. Q. Are you sure that the party was in Commander Yoshii's room? The information we have is that the party was in the officers' mess on the second floor.
A. As far as I recall, the party was held in the commander's room.
91. Q. Was Commander Yoshii in his quarters, when you arrived at the party?
A. Yes. When Lieutenant Masutani and I completed cleaning our swords, we went down to Commander Yoshii's room where we had our supper.
92. Q. Do you have any information, regarding the execution of an American flyer at the Navy base?
A. I did not hear of any execution by the Navy base but I heard a rumor that the Navy base captured a flyer sometime in June or July, 1944; but that this man was sent to Iwo Jima, or Japan, or somewhere, I do not know.
93. Q. Did Commander Yoshii keep human liver in the refrigerator near his quarters?
A. I heard a rumor that part of the liver was kept in the ice box, but if this was true or not, I do not know.
94. Q. Isn't it true, that Commander Yoshii kept part of this liver for some time and when officers came into his room, he would offer them some?
A. I never heard of that.
95. Q. Did Major Matoba visit Commander Yoshii frequently?
A. As far as I recall, major Matoba visited the wireless station several times a month.
96. Q. How old were you at the time of the execution?
A. I was twenty (20) years old.
97. Q. What rank in Kendo did you hold at that time?
A. I never practiced.

CERTIFIED TO BE A TRUE COPY

S. L. Filer *ALV:sk* "Exhibit 1" (4)

CLF
CLF
312

0462

98. Q. Was the body later exhumed and cremated?

A. While I was at the wireless station, the body was not disturbed.

99. Q. Do you have anything to add to your testimony?

A. No. Nothing further to add except that I really was forced to do the executing, and I hated so much to do it, that I cannot get it off of my mind. It was either my execution or the prisoner's execution, and so I executed the flyer.

None of the parties to the investigation desired further to examine this witness.

The board informed the witness that he was privileged to make any further statement covering anything relating to the subject matter of the investigation which he thought should be a matter of record in connection therewith, which had not been fully brought out by the previous questioning.

The witness verified his testimony, was duly warned, and withdrew.

"Exhibit 1" (8)

CERTIFIED TO BE A TRUE COPY
P. L. Fieck L. W. K. A.

313

0463

ORDER REGARDING EXECUTION OF AMERICAN PRISONERS OF WAR.

"Lieutenant Suyeyoshi, Company Commander of the Suyeyoshi Tai, receive a Prisoner of War from Adjutant Kansuri. Execute this Prisoner of War on the plateau to the East of your company area. Get the details regarding the method of execution from Kansuri".

Major MATOBA
Commander of Army and Naval
Forces
Northern Section.

Date: February 22nd, 1945.
Time: 1400 February 22nd, 1945.

METHOD OF ISSUING ORDER:

I called to my presence Adjutant Kansuri and Lieutenant Suyeyoshi and personally issued a verbal order and a written order.

REPORTED COMPLETION OF ORDER TO:

Commander in Chief of Combined Army
and Naval Forces, Chichi Jima:
Major General Tachibana.

Commander in Chief Special Naval
Forces:
Rear Admiral Mori.

The 308th Independent Infantry Battalion.

"EXHIBIT 2" (1)

CERTIFIED TO BE A TRUE COPY

L. L. Field *ALB R.*

214

0464

ORDER REGARDING EATING OF FLESH OF AMERICAN FLYERS

- I "The Battalion wants to eat the flesh of the American Aviator, Lieutenant (junior grade) Hall".
- II First Lieutenant Kanmuri see to the rationing of this flesh.
- III Cadet Sakabe (medical corps) attend the execution and have the liver and gall-bladder removed.
- Battalion Commander: Major Matoba, Sueo
- Date: March 9th, 1945
Time: 9 a.m.
Place: Mikazuki Hill Headquarters.

METHOD OF ISSUING ORDERS:

Called to my presence First Lieutenant Kanmuri and Cadet Sakabe and gave verbal order.

PLACE TO REPORT AFTER COMPLETION OF ORDER:

Brigade Commander: Major General Tachibana

Also informed: Detached Divisional headquarters:
Major Horie.

The 308th Independent Infantry Battalion.

I wrote the above freely, believing it to be the truth.

MATOKA SUEO, Major, IJA
16 April, 1946.

CERTIFIED TO BE A TRUE COPY "EXHIBIT 2" (3)

L. A. Field *ALB 1211*

46

0466

I, MATOBA Sueo, being duly sworn on oath, state that I have had read to me and understood the translation of the foregoing transcription of my statement consisting of three (3) pages, and it is the truth to the best of my knowledge.

MATOBA SUEO

Subscribed and sworn to before me this 16th day of April, 1946.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member

COMMANDER OCCUPATION FORCES)
CHICHI JIMA, BONIN ISLANDS) ss

I, Frederick Arthur Savory, civilian, interpreter, being duly sworn on oath, state that I truly translated the statement and answers from Japanese to English and from English to Japanese respectively, and that after being transcribed, I truly translated the foregoing statement containing three (3) pages to the witness; that the witness thereupon in my presence affixed his signature (name or mark) thereto.

FREDERICK ARTHUR SAVORY

Subscribed and sworn to before me this 16th day of April, 1946.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

COMMANDER OCCUPATION FORCES)
CHICHI JIMA, BONIN ISLANDS) ss

I, Robert D. Shaffer, Major, 06652, U. S. Marine Corps, certify that on the 16th day of April, 1946, personally appeared before me MATOBA Sueo, and according to Frederick Arthur Savory, civilian, gave the foregoing statement set forth therein; that after his testimony had been transcribed, the said MATOBA Sueo had read to him by the said interpreter the same and affixed his signature (name or mark) thereto in my presence.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

COMMANDER MARIANAS
GUAM, APRIL, 1946.

"EXHIBIT 2" (4)

CERTIFIED TO BE A TRUE COPY

S. L. Fink *U.S.M.C.*

0467

Guam, Marianas Islands,
16 April, 1946.

The foregoing statement consisting of three (3) pages, made by me, was not obtained under duress, not prompted by promises, threats, or inducements of any kind. I wrote the foregoing statement freely and willingly.

Matoba, Suso.
Major,
Imperial Japanese Army.

"EXHIBIT 2" (5)

CERTIFIED TO BE A TRUE COPY

P. L. Furel *L. G. S. A.*

318

0468

CONFESSION OF NAKAMURA, SHIGENOBU.
(Former Corporal, IJA)

11 January, 1946.

From: Corporal Nakamura, Shigenobu.

1. Situation at the time I was ordered to execute the flyer. Major Matoba is said to have stated that "Hall" will be executed by the Karitani unit to avenge the deaths of Captain Mori and eight (8) others, who were killed in action on August 31st, 1944.

On the following day, I, Corporal Nakamura, left headquarters at 9 a.m., for brigade headquarters to pick up orders. When I reached east ridge, they had a flyer there, so I, Corporal Nakamura, was watching Lance Corporal Isono looking for Sergeant Furushika. He wasn't found, so Superior Private Kikuchi (Karitani Unit) was ordered to find him, but he didn't come since he was sleeping after returning from an unloading detail.

Thereupon I, Corporal Nakamura, was ordered to behead the flyer, by Captain Sato and Medical Officer Teraki, but I declined, saying that I didn't want to because Sergeant Furushika was supposed to do the beheading. However, they said that since Sergeant Furushika wasn't there, and it would be late, Corporal Nakamura should do the beheading (by "it it would be late", they meant that the course of study on a human body for medical corpsmen would be late).

2. My feelings at the time I received this order: according to rumors Sergeant Furushika is said to have stated that in the execution arms and legs will be slashed first to make the flyer suffer, and then kill him. If I must kill him, I would or wanted to kill him without making him suffer and let him die like a soldier. Moreover, even if he is our enemy, to Americans he was a loyal and brave soldier and I felt sorry that I had to make him suffer. However, even if I didn't obey Major Matoba's orders, I did not know what he would do with me, so I beheaded the flyer as ordered. Major Matoba is a high-handed man, and he gets angry over small things. I once saw him beat up First Lieutenant Ota until he was unconscious, and I feared that he might kill me, so I had no choice but to act as ordered.

In the Japanese Army, there is no freedom for noncommissioned officers and privates.

Especially in a wartime Army, orders must be obeyed. You can find out from any soldier on Chichi Jima that the daily life and actions of Major Matoba is beyond words. Even if I didn't do the executing, he would have ordered someone else to execute the flyer.

3. The system of orders in the Japanese Army:

In the Japanese Army, orders are never passed down from unit commanders to noncommissioned officers and privates directly. The unit

"EXHIBIT 3" (1)

CERTIFIED TO BE A TRUE COPY

S. L. Fink *ALB*

319

0469

commanders give orders to subordinate officers, and officers to enlisted men. So I took orders from Captain Sato and Medical Officer Teraki, as I would have orders from Major Matoba, himself, and acted on them as such.

Not only this, but all work is carried out on orders of subordinate officers and the adjutant.

4. My request is:

1. Major Matoba will probably not mention the fact that he ordered this execution, so if possible please see to it that Captain Sato and Medical Officer Teraki attend the trial.
2. Please do not seat Major Matoba together with them.
3. You can find out everything from Master Sergeant Yamashita, Corporal Yamamoto, and Sergeant Major Wada, who witnessed the incident.

Notes:

1. Major Matoba is said to have stated to Corporal Nakamura on the morning of December 25th, 1945, that he once said, "send the flyer to the Karitani unit to avenge the death of Captain Mori".

2. Captain Kanmuri acknowledges the fact that Corporal Nakamura acted upon orders, because a noncommissioned officer cannot execute a flyer at will.

I wrote the above freely, believing it to be the truth.

Nakamura, Shigenobu

I, Nakamura, Shigenobu; being duly sworn on oath, state that I have had read to me and understood the translation of the foregoing transcription of my statement consisting of two (2) pages, and it is the truth to the best of my knowledge and belief.

Nakamura, Shigenobu

Subscribed and sworn to before me this 11th day of January, 1946.

Robert D. Shaffer, Major,
06652, U.S.M.C.,
Senior Member.

CERTIFIED TO BE A TRUE COPY "EXHIBIT 3" (2)
S. L. Field *AL U.S. 24.*

370

0470

COMMANDER OCCUPATION FORCES)
CHICHI JIMA, BONIN ISLANDS) ss

I, Daniel N. Williams, 298389, U. S. Naval Reserve, being duly sworn on oath, state that I truly translated the statement and answers given from Japanese to English and from English to Japanese respectively, and that after being transcribed, I truly translated the foregoing statement containing two (2) pages to the witness; that the witness thereupon in my presence affixed his signature (name or mark) thereto.

DANIEL N. WILLIAMS, Lt (jg) USNR.

Subscribed and sworn to before me this 11th day of January, 1946.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

COMMANDER OCCUPATION FORCES)
CHICHI JIMA, BONIN ISLANDS) ss

I, Robert D. Shaffer, Major, 06652, U.S. Marine Corps, certify that on the 11th day of January, 1946, personally appeared before me Shigenobu NAKAMURA, and according to Daniel N. Williams, Lt (jg), USNR gave the foregoing statement set forth therein; that after his testimony had been transcribed, the said Shigenobu NAKAMURA had read to him by the said interpreter the same and affixed his signature (name or mark) thereto in my presence).

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

CHICHI JIMA, BONIN ISLANDS
JANUARY, 1946.

Chichi Jima, Bonin Islands,
11 January, 1946.

The foregoing statement consisting of two (2) pages, made by me, was not obtained under duress, nor prompted by promises, threats or inducements of any kind. I wrote the foregoing statement freely and willingly.

Nakamura, Shigenobu;
Corporal, Imperial Japanese Army.

CERTIFIED TO BE A TRUE COPY

S. L. F. *Field* *Alvick* "EXHIBIT 3"(3)

0471

FROM:

COMMARIANAS

TO:

BUPERS CASUALTY DIV

INFO:

JAG WAR CRIMES DIVISION

SUBJECT WAR CRIMES X INFO HERE INDICATES FOLLOWING NAMED ENLISTED
KILLED ON CHICHI JIMA BONIN ISLANDS X VERB RADIOMAN 4 AUG 44 X
FELD OR FELLOW 12 AUG 44 X MARCHAND OR MARSHON 18 FEB 45 X TODD
18 FEB 45 X YORK 18 FEB 45 X GLEN J FRAZIER 20 FEB 45 X REQ
CONFIRMATION AND IDENTIFICATION X

15 MAY 46

DTG 142347

PLAIN

ROUTINE

CERTIFIED TO BE A TRUE COPY

S. L. Fure *ALB* "EXHIBIT 4"

322

0472

FA V JC NR 7526 PRIORITY PLAIN 31 MAY 46
FROM BUPERS 292025
TO COM MARIANAS
INFO JAG WASHINGTON D C
GR 162 BT

RE UR 142347Z X JAMES WESLY DYE ARM3C 245 22 93 AND GRADY ALVAH YORK AOM3C
556 82 32 OF VT 82 MAIL 18 FEB 1945 WHEN THEY PARACHUTED OVER WATER NEAR CHICHI
JIMA BONINIS X PRESUMED DEAD 19 FEB 1946 X PARA TWO X ENSIGN HALL 364023 GENN
JUNIOR FRAZIER AOM2C 629 81 32 MARVIE WILLIAM MERSHON ARM 3C 565 40 88 ANE
ENSIGN RUDOLF FRE ROLFING 363 587 CARROLL CURTIS HALL ARM2C 554 40 19 JOSEPH
EDWARD NOTONY IN PLANES OF VT 12 MINA 18 FEB 1945 SEEN IN WATER IN FUTAMI BAY
CHICHI JIMA X ALL PRESUMED DEAD 19 FEB 1945 X PARA THREE X STATEMENTS RELEASED
POW INDICATE ENSIGN HALL AND DYE PICKED UP 18 FEB AND HELD WITH TWO OTHERS
ON CHICHI JIMA AND THAT THESE FOUR KILLED AIR RAID ON 15 MARCH 1945 CREMATED
AND BURIED IN MILITARY CEMETARY ABOVE OMURA TOWN X PARA FOUR X UNABLE TO
IDENTIFY VERB FELD OR FELLOW AND TODD

BT 292025 NPG NR 6077
TOD.....0630 'BILL' -B- KKK
V FA ROGER UR NR 75226 7526 BOB KKKKKKKKKK

CERTIFIED TO BE A TRUE COPY

S. L. Fink ALVISA. " EXHIBIT 5 "

0473

FROM: COMMARIANAS
TO : BUPERS (CASUALTY SECTION)
INFO: JAG (WAR CRIMES DIVISION)
PLAIN ROUTINE

REQUEST CONFIRMATION DEATH OF LLOYD RICHARD WOELLHOF AVRAD SECOND CLASS
USNR LOST DURING AIR STRIKE CHICHI JIMA BONIN ISLANDS 4 JUL 44 FOR PURPOSE
WAR CRIMES INVESTIGATION X

14 MAY 46

DTG 132323Z

"EXHIBIT 6"

CERTIFIED TO BE A TRUE COPY.

C. L. Fink ALB SAR.

324

0474

FROM:

BUPERS

ACTION TO:

COMMARIANAS

LA

PLAIN
RED

TTY

ROUTINE

YOUR 132323Z X WOELLHOF LLOYD RICHARD ARM2C 628 65 11 CARRIED MISSING
IN ACTION OVER CHICHI JIMA FROM 1 JULY 1944 TILL 28 JAN 1946 WHEN PRESUMPTIVE
FINDING OF DEATH MADE BY SECNAV X DEFINITE REPORT OF DEATH NEVER RECEIVED
BUPERS XXXXXX

REF: 132323 (1073) (PLAIN) REQUEST CONFIRMATION DEATH OF LLOYD
RICHARD WOELLHOF AVRAD SECOND CLASS USNR...ETC....

15 MAY 46

DTG 141620Z

JC3715

GRN 3187-A

CERTIFIED TO BE A TRUE COPY

C. H. Fure *ALVSR*

"EXHIBIT 7"

BK

0475

FROM:

COMMANDER MARIANAS

ACTION TO:

CNO

INFO TO:

JAG (WAR CRIMES DIVISION)
CINCPAC
NATIONAL WAR CRIMES OFFICE
(WAR DPT PASS)

CLASSIFICATION

RESTRICTED
ROUTINE

ORIG.
BY:

LEGAL
13

AS DIRECTED BY CINCPAC IN HIS SERIAL 0558 OF 8 MARCH 46 NOT TO ALL IT IS REQUESTED THAT THE FOLLOWING BE FURNISHED THE JAPANESE GOVERNMENT FOR

INFORMATION X QUOTE PARA (1) A UNITED STATES MILITARY COMMISSION CONVENED BY COM MARIANAS WILL ON 5 AUGUST 46 OR SOON THEREAFTER ON GUAM BEGIN TRIAL OF

FOURTEEN (14) JAPANESE NATIONALS ACCUSED OF WAR CRIMES X NAMELY X (1) TACHIBANA, YOSHIO, FORMERLY LIEUTENANT GENERAL, IJA X (2) MORI, KUNIZO,

FORMERLY VICE ADMIRAL, IJN X (3) YOSHII, SHIZUO, FORMERLY CAPTAIN, IJN X (4) MATOBA, SUBO, FORMERLY MAJOR, IJA X (5) SATO, KESAKICHI, FORMERLY

CAPTAIN IJA X (6) SUYEYOSHI, JITSURO, FORMERLY LIEUTENANT, IJN X (7) SASAKI, MITSUYOSHI, FORMERLY LIEUTENANT, IJN X (8) MATSUSHITA, KANEHISA,

FORMERLY LIEUTENANT, IJN X (9) ISOGAI, GUNJI, FORMERLY FIRST LIEUTENANT, IJA X (10) HAYASHI, MINORU, FORMERLY LIEUTENANT (JG), IJN X (11) MASUTANI,

SHINICHI, FORMERLY LIEUTENANT (JG), IJN, X (12) MORI, YASUMASU, FORMERLY SERGEANT, IJA X (13) NAKAMURA, SHIGENOBU, FORMERLY CORPORAL, IJA X (14)

KIDO, MATSUTARO, FORMERLY SUPERIOR PRIVATE, IJA X LAST NAMES FIRST X PARA (2) ACCUSED ARE PRESENTLY CONFINED AT GUAM X PARA (3) CHARGES AGAINST

ACCUSED WILL BE X (ABLE) MURDER X (BAKER) VIOLATION OF LAWS AND CUSTOMS OF WAR X (CHARLIE) NEGLIGENCE OF DUTY IN VIOLATION OF LAWS AND CUSTOMS OF WAR X

THE SPECIFICATION UNDER THE CHARGES WILL ALLEGE COLON (ABLE) THE UNLAWFUL KILLINGS DURING THE PERIOD FROM AUGUST 1944 THROUGH MARCH 1945 OF EIGHT (8)

US MILITARY PERSONNEL WITHOUT JUSTIFIABLE CAUSE HELD AS PRISONERS BY THE ACCUSED AT CHICHI JIMA, BONIN ISLANDS X (BAKER) FOUR (4) CASES PREVENTION OF

HONORABLE BURIAL IN VIOLATION ARTICLE 4, GENEVA RED CROSS CONVENTION 1929 (CANNIBALISM) X (CHARLIE) FAILURE TO PROTECT PRISONERS OF WAR AND FAILURE

TO RESTRAIN PERSONS UNDER THE COMMAND AND CONTROL OF ACCUSED X MAXIMUM PENALTY FOR SUCH OFFENSES IS DEATH X PARA (4) ABLE COUNSEL CONSISTING OF

AT LEAST ONE US NAVAL OFFICER AND TWO JAPANESE CIVILIAN LAWYERS FURNISHED BY JAPANESE GOVERNMENT WILL BE ASSIGNED THE ACCUSED BY CONVENING AUTHORITY X

UNQUOTE XX XX XX XXX XXXX

DATE 24 JULY 1946 DTG 240600Z X

CERTIFIED TO BE A TRUE COPY

"EXHIBIT 8"

S. L. FINE ALVARO

0476

歎歎書

謹に裁判長閣下並に判事諸官に對し、父島戦争犯罪
被害陸軍大尉佐藤金朝君に對し、
佐藤大尉の本事件に何れも関係有る故に現法廷に
之を召す不明たる父島在島年有半と云ふ同大尉
觀亦諸君其性溫厚篤實居常最に模範
部下並に同僚故其影響部下一般に及ぼす
斯に佐藤大尉に之を故意自決の非進行爲
を以てせしむるに當り信ぜられし同大尉に斯う
行爲(言動)をせしめし是に上官の命に依りて
軍紀上殊に三十年間長年係属経験有る

佐藤文尉、軍紀、軍法上服従、少くなく、行動

を、一思考を、全、痛、同、情、堪、え、所、有

裁判長閣下、判事諸官、右、情状、勘、所、下、す、

由、寛、大、に、由、長、處、置、賜、ふ、事、切、由、願、申、上、い

昭和廿二年九月一日

陸軍文尉

時任春男

父島岡保雄軍紀罪裁判

裁判長閣下

佐藤今朝方人格證言

父島護人 杉山 章

彼は一滴の酒も飲まない程勤直な且つ素朴な人物、将主である。一方非常に実行力のある努力家である。

彼は中隊長時代は非常に嚴格に部下を指導した反面部下を深く愛した。且て硫黄島警備中、野菜が不足して困った時たまく佐藤大尉はギョリを一口を許し入手した。彼は二水も中隊全員に食させたと一言小事を聞かした事がある。

昭和十九年六月、中隊全員として父島第三〇一大隊に転属し、来すした。

彼は部下の信頼厚く、實に兵から父の如く尊敬され、慕はれ、小すした。彼が昭和十九年九月、増大隊本部附となつても、かつこの部下は彼の好きな甘い物を持って来て色々お慰め、指図を受けたりするした。

佐藤大尉は私の主任であつた。彼は毎日良く事務の處理を
計画等も非常に注意深く熱心に行ひました。因つ私
等下士官に対しても常に親切丁寧な指導をして呉れました。
上からの命令指示等は常に良く実行しました。即ち彼が三〇年
近い軍隊生活で上官の命令は絶対に遵守しなされるやうな
練習慣づけられた事でした。其上の場少佐の如き果敢に部
下として直接従はねばならなかつた事は、彼の大きな不幸であ
つた。内地の家庭には妻と十才位の男の子一人とか彼の歸るのを
鶴首して居ると聞いた。彼はは何の財産もなかつた。
勤はくが日も早く家庭の人とならせう。人事をお勤ひ致
す次第であります。

(終り)

佐藤大尉ニ對スル人格証言書

余ハ佐藤大尉ト同本部附トシテ一年有余部隊長ノ補佐役トシテ
 服務シ起居ヲ共ニシテ居リマシタガ其ノ人格眞ニ強固篤實
 常ニ部隊長ノ命令ヲ遵法シ部隊長ノ在不在ニ拘ラズ意固ヲ
 体ニテ業務ヲ処理シ同僚並ニ私等以下一般ヲ指導サレタリデ
 アリマス 佐藤大尉ニ對スル部隊一般ノ信賴ハ誠ニ厚ク時折
 寸暇ヲ得テハ旧所屬中隊第中隊ニ赴キテ旧部下ヲ慰ニ慰
 安シ又激勵スルヲ當時ノ父島ニ於テ唯一ノ樂シミトシテ居ラレタリ
 デアリマス
 又旧部下ハ誰彼トナリ本部ニ來ル毎ニ旧隊長大尉ヲ尋ネ
 恰ス子ガ慈父ヲ慕フガ如キ有様ハ誠ニシラヤマシキ程ニ至
 ナモノデアリマシタリ

尚特殊ナル性格、保持者タル部隊長一時折理由、如何ノ内
公此ヲレ、或ハ提打サレ、ガ如キ場合ニ於テモ大尉ハ何一ツ不
平モ言ハズ從順ニ點々ト實行服従スルガ常デアリ其ノ服従心
及ビ部隊長ノ補佐業務ノ實行力ハ部隊ノ遠征タル人デ
アリマシタ亦大尉ハ下士官ヨリ立身進級シ現在ニ到ル迄軍隊生
活三十年此ノ内何事事故モ上下ノ信頼ヲ一身ニアツメ
現在ニ至リシハ是ニ過言莫客詰詰キ大尉ノ職務
ヲ然ラシムルモノト私ハ確ク信ジテ平ル者デアリマス

昭和三十一年九月二十三日

陸軍大尉 冠吉春

裁判長岡下

To Your Honor, the President of the Military Commission.

Petition.

I humbly make my plea to the honorable President and members of the Military Commission who are trying SATO, Kesakichi, former Captain, IJA, for war crimes committed on Chichi Jima.

I do not know what connection Captain SATO has with this case which is now being tried before you; and why he has been named as one of the accused. We were stationed together on Chichi Jima for one year and a half, and I have heard and seen much of him. He was gentle and sincere and set an example for others in his daily life. He was trusted by his colleagues and subordinates and was a model for those under his command.

I cannot make myself believe that a person like Captain SATO, would wilfully and spontaneously commit an immoral act. If it is true that there has been such an act committed by him, it must have been the result of a superior's order. Captain SATO, with his thirty years of military experience behind him, had no other alternative but to follow the military code which required absolute obedience to orders. I deeply sympathize with him in this matter.

I humbly beg that the honorable President and the members of the Commission take these things into consideration as extenuating circumstances.

KARIYA YASUO.
Captain, IJA.
8 September 1946.

I certify the above to be a true and correct translation of the original petition of Kariya, Yasuo, in Japanese to the best of my ability.

Eugene E. Kerrick
EUGENE E. KERRICK,
Lieutenant, USNR.
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF SATO KESAKICHI:

He was so honest and simple that he never had any liquor. On the other hand, he was diligent.

When he was the commanding officer of his company, he was very strict with his men, but very kind to us on the other hand. Once when we suffered from a shortage of vegetables at Iwo Jima, he obtained ten cucumbers, which he shared with all the men in his unit, I hear.

In June 1944, his company was attached to the 308th Battalion, Chichi Jima. He was loved and admired by his men as if he had been their father. And even after he was attached to the Battalion Headquarters his former subordinates used to visit him with some sweets which he liked, in order to have his instruction.


SATO was my superior officer. He carried out his business and plans very carefully and earnestly. Besides, he instructed us, the non-coms, very kindly.

He carried out well the orders and directives of his superiors. It is because he was accustomed to do so without questions because of his military life of more than 30 years. It is his misfortune that he had to obey that tyrannous MATOBA. I hear that his wife and his son of ten years old are looking forward to his return. He has no property now. DK

I hope you will kindly release him.

SUGIYAMA AKIRA
Chichi Jima witness.

I certify the above to be a true and correct translation of the original petition of Sugiyama, Akira, in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.
Lieutenant, USNR.
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF FORMER CAPTAIN, IJA, SATO.

To Your Honor, The President of the Military Commission:

Captain SATO and I were attached to the same headquarters as assistant officers of the commanding officer and lived together for more than a year.

He was mild, honest and obedient to the commanding officer. He carried out his business to the satisfaction of his commanding officer even when he was not there, and instructed us kindly. Therefore, he was heavily relied upon by the personnel of the battalion, and it was his only pleasure at Chichi Jima to go to encourage his former subordinates of the 1st company. EKA


His former subordinates also used to call on him whenever they came to the headquarters. Therefore, we often envied their intimacy which seemed to us as if there had been a blood-relation between him and them.

Since his commanding officer had a strange character, he was often scolded or beaten regardless of the reasons. But he never complained about them and used to obey his commanding officer. His obedience and his assistance to the commanding officer were admired as outstanding examples of service in the brigade. He was promoted to captain after a military career of 30 years which was begun in enlisted status. It is due to his mild, earnest and benevolent character that he made no mistakes during that time and that he was relied upon both by his superiors and subordinates, I believe.

23 September 1946.

KAMMURI, YOSHIHARU.
Former Captain, IJA.

I certify the above to be a true and correct translation of the original petition of Kammuri, Yoshiharu, In Japanese to the best of my ability.


EUGENE E. KERRICK, JR.
Lieutenant, USNR.
Interpreter.

昭和二十二年九月十日

陸軍省

作 藤 上 泰

父島國保隊員犯罪
裁判長閣下

11a (2)

33'

0486

謝 願 書

此、度貴法廷に起訴せられた元陸軍
上等兵 木戸松太郎に關し不審、身
又者矣

裁判長閣下並に判士諸君に謝意を
申上げます 被告 木戸松太郎、昭和

十九年六月一日生、其に父島

旅団司令部に配属せられた者、

彼、性質素行温順、責任感

旺盛、其に故に上官、命令を受ける

事件を提起した、

彼、性格上、申したる軍隊に於て、

犯罰を元令に即座に賜へ、

即判決したる事を奉願、

陽曆一九四九年九月十日

陰曆八月廿二日

伏 康 正 泰

父島國保衛隊員
蘇利長岡下

11a (2)

331

0488

教諭書

今度、合同裁判に於ける被告之陸軍と善兵
不主私太即ほ小生之えに勸誘せる者にて正義
を貴ぶ熱血欠けずりす

又ト判決を受けたるは尤も善兵。性質とは反対
で志おは性質温順にて人と認するにも取、

と言ふ様な性質ありき又反対に不戸は
上らる。命令であるならは如何なる事をもと意

と彼に熱血ありき又非常な涙を流し順
と彼の罪を指摘すれば定めて自己の意
かりし事を新罪罪すると言ふ様な思ひありき

故に私は命令する者にして罰、大に叱り
実行せしめたる者にして非常なる快活感し

を彼にせしめたる事は人道無難なる事
實際にありき此れをせしめたる上らる

人格を不常敵とせしめたる上らる
誠心懺悔するを命令実行者

不主私太即ほ小生之えに勸誘せる者にて正義
を貴ぶ熱血欠けずりす

又ト判決を受けたるは尤も善兵。性質とは反対
で志おは性質温順にて人と認するにも取、

と言ふ様な性質ありき又反対に不戸は
上らる。命令であるならは如何なる事をもと意

[illegible]

陸軍上等兵 木戸松太郎 対人格証言書

木下等より身体強健にして快活、淡白であり、その旅団
 司令部にて優育ふるむとて、その坂の司令部に於ける
 もよりの勤務状態は積極的なり。特に土地自治
 の方面に於ては、遂次文島が食糧不足の状態に入り、つゝあ
 った時には、依々勤務を傍進んで山間の傾斜せる荒れ
 地を彼の主ふる努力に依り、遂次良田と化し、汎なる作物
 の栽培に専心し、司令部附近に於ける自治の先導とな
 るべく、なるべく努力を拂つた。そのありき、てその功大
 なるものがあり。

又彼はまた、観念旺盛にして、昭和三年六月―七月

漸次激しくなりつゝあるのを見て、将集が流されるからよく
之を待たせといふ濯記になつて、将集は、物品搬送に努めて
居りしやうだ。途端、上流より流木の激突に依り、将集は瞬
刻間に濁流に吞まれて了つたのであります。木戸は、将集よ
り劣る暇なく共に流され、飛走するにも辺は眞暗、その上
附近は数計り、然るに下流に米ト流には断崖絶壁があ
り、そこを流されれば、自分分の身も、将集も微塵に碎け
る。解り切つた事實です。そこで木戸は思ひ切つて、将集よ
り眞暗な濁流の中へ飛込込み、絶壁の寸前に於て木戸根
に、いかゞつて危機を脱したのであり、よゝて、佐令班に啼
つて来た木戸は、足には釘もさし、顔面もおろ、身に数所
の傷を負つて居りました。
斯く、如く自分の身命を賭し、自己の任務を遂行せんとす

は彼木戸の旺盛なる責任觀念の發露に外ふらうといひ
あります。

斯る乏しい精神を持つて又一方思ふ彼の家庭的方面に於
て見れば彼は彼は生きた極めて恵まれた環境に育つて来た
者であります。彼には父母兄弟なく、勿論財産なくたゞは只
妻子のみであり、そして、あつた人同様に世に生きた享け
た人として生活して行く上に各種の物慾を持ちますがそれ
にも況して我々の總するものは父母兄弟（姉妹）妻子の健全
であれといふこととあります。此ふから彼にはその殆どが單
に持つ妻子は既に泣き顔のつてあります。

彼は赤ん坊は川崎の某工場に職工として勤務し、彼の妻子
はその彼の會社より得る収入のみに依るその生活費を続け
て来たのであります。彼が心からいふや家族は生活の根源、

家族を失ひ生活に命を了つたのであります。
彼は妻子を持つ一家の主であります。日本に於ける主は
その家族を扶養する絶体の義務を持つ。木戸の家庭に於け
る彼の地位は重且大であります。
斯の如き彼の家庭状況を知らせて司令部に於ては司令
部只一人の軍事扶助を受けさせつゝあつたところかくして
終戦となり彼は一家を支へべく喜び勇んで家庭の人となつた
のであります。が帰つたとき見えたのは東の向斯る身として家
より引離され、異國に送られ、法廷に現はる。様になつた現
在に於てその家庭は敗戦日本、食糧飢饉の波に押し倒され
食ふに食無く住むに家なく、妻は飢に泣く我が愛し子を抱
き泣きに迷つて居るうてはなれぬと思はれます。
然し乍ら彼が開放されたる身として故國日本へ帰り家庭に

父と、夫と、と歸りし。たふらは彼は勿論彼の妻子の良い
は如何許りかと思ひければ、彼も又之を機に、心氣一轉、妻子を
共に立派なる人間として復興し、本々為に渾身の努力を排
ふものと確信いたします

昭和二十一年九月二十三日

陸軍大尉 菅唯明

11c (6)

324

PETITION FOR KIDO MATSUTARO

To Your Honor, The President of the Military Commission.

In spite of my insignificant position, I submit my humble petition for clemency in the case of the accused Kido Matsutaro, former superior private, IJA, to Your Honor and the members of the Military Commission.

Like myself, the accused Kido Matsutaro, was called to arms in June 1944. We were both attached to the Brigade Headquarters. Kido's nature and his actions were gentle and obedient, and he possessed a strong sense of responsibility. Because of this, he followed his superior's orders and became involved in this case.

Though it was due to the meekness of his character, I humbly beg that Your Honor will take into consideration the fact that he committed such an offense only because he was forced to do so by the strict military code, and that you will be lenient in dealing with him.

Sato Masayasu,
Superior Private, IJA.

I certify the above to be a true and correct translation of the original petition of Sato Masayasu, in Japanese to the best of my ability.

Frederick F. Tremayne
FREDRICK F. TREMAYNE,
Lieutenant (jg), USNR.
Interpreter.

PETITION

To Your Honor, The President and the Members of the Commission:

The accused Kido Matsutaro who is being tried before Your Honor in this trial served under me and is a righteous and exemplary person.

His nature is very different from that of Shimura, who has already been given trial, and while Shimura was of an inward, obedient nature, bashful even when it came to converseing with people, Kido was possessed of a spirit that would go through fire and water to execute his superior's orders faithfully. But on the other hand, he was easily moved to tears, and when told in a friendly way his mistakes, he would shed tears of repentance and apologise.

Knowing that he was of such a character, I cannot keep myself from thinking that it was the crime of the person who ordered him to carry out the offense, and I am indignant at his superior officer, who made him do this. Though it is true that the crime he is being charged with is an immoral one, I am one who hates the soul of the superior officer who ordered such a dastardly and unreasonable act. But thinking of the person who was forced to act under such orders, I am deeply moved when I think of his suffering, and am praying day and night that the decision will be a lenient one.

I have dared, in spite of my humble position, to submit this petition, in hopes that you will be merciful in dealing with him in your fair and just trial.

Hidano, Raidenwaka
Corporal, IJA
Chief Messenger, Division HQ.

I certify the above to be a true and correct translation of the original petition of Hidano, Raidenwaka, in Japanese to the best of my ability.

Frederick F. Tremayne
FREDERICK F. TREMAYNE
Lieutenant (jg) USNR
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF SUPERIOR PRIVATE, IMPERIAL JAPANESE ARMY,
KIDO, MATSUTARO.

Superior private KIDO was healthy, cheerful and frank, and was an excellent soldier at the Brigade Headquarters. He showed initiative in his service as a soldier. He was especially enthusiastic in the farming operations on Chichi Jima. When the provisions of the Japanese Army on Chichi Jima became short he endeavored to bring wild tracts of land in the hills under cultivation after working hours. These waste lands soon became good farms and he tried to raise crops. Thus, he was the leader of agricultural operations and his service was very distinguished.

He had a good sense of responsibility, toward June or July 1945, there was a serious flood at Chichi Jima. As a matter of course, it was raining hard from morning. The assembly hall for officers of the headquarters stood by a small river in the valley where they had their meals together. The messengers duty was to prepare and re-arrange the table. 216

It was also rainy that day. Officers were to have their meal at their assembly hall as usual. And messengers had to carry their meals to the hall. The small river did not rise much at lunch time but toward evening it overflowed and the flood reached the floor of the hall. It seems that the hall was about to be flooded when officers finished their supper. KIDO, and the other messengers began to lay aside the tables when the flood was becoming serious. He tried to carry out the articles inside the hall as it seemed to him that it might soon be floated away. Then a floating piece of wood struck the hall, the hall fell in due to the powerful stream of water. KIDO was then in the hall. He tried to get out. But it was quite dark, and thick jungles were around him. About 20 meters down the river there was a cliff. If he had floated down with the hall, it was certain that both he and the hall would have been smashed to pieces. He made up his mind and jumped into the muddy current. He just barely caught onto a root of a tree and escaped from this critical situation. When he returned to his unit several wounds were to be seen on his face, legs, and body.

This will tell you well that KIDO had so strong a sense of responsibility that he was willing to discharge his duty even at the risk of his life.

He had such an honorable spirit. However, his environment was very miserable from childhood. He had no parents, no brothers, and of course no property. He had only his wife and children. Though we hope for material gain it is our general feeling in life that our families should get on well. But he has only his wife and children and they are suffering from starvation.

Before his enlistment, he was a laborer at a factory in Kawasaki. His small pay was the total income of his family. And after his enlistment his family lost its income and suddenly became poor. 217

He was the head of a family with a wife and children. In Japan the head of the family has an absolute duty to support them. His position in his family was, therefore, an important one.

He was the only man who received the allowance for dependants while serving at the headquarters. Then the war terminated. He returned to his home with job to support his family. But his delight was short-lived. 218

He was accused and was sent abroad to attend the tribuna^{hal}. Thus, his family was tortured by the prevailing food-crises of Japan, having no food to eat and having no house to live in. I'm afraid that his family might be reduced to begging. OK

However, if he will be released and repatriated to his home, how glad he and his family will be. His mind will take a new turn and he will undoubtedly make every effort with his wife and children for the reconstruction of Japan.

Kosuga, Tadaaki,
Captain, IJA.

I certify the above to be a true and correct translation of the original petition of Kosuga, Tadaaki, in Japanese to the best of my ability.

Frederick F. Tremayne
FREDERICK F. TREMAYNE
Lieutenant (jg) USNR
Interpreter.

海軍大尉末吉實郎 對人 人格宣言書

趙雲中尉 官下常主部

永吉大尉ト私が相識ニ至リタリハ昭和三年頃私が遼寧花
術學校、教員當時彼練習主トシ又教程修了後臨時増置員
トシ我留ヲ命ゼラレテ同校ニ勤務中デアリタリ當時、彼、頭腦
明晰非常ニ元氣溢濺トシ余令下水火モ碍ガズ衆ニ先ニ
テ難局ニ當リ、英風ヲ有シ大ニ前途ニ希望ヲ生ラシタリ
相識、年ヲ経テモ私、印象ニ残ラズ今ニ次第デアリタリ

吉復村郷の奥に岡亭上相見樓會々得々セシガ如和
十九年七月彼が家百四十防衛隊長トシ父爲ニ派遣セシマス
以前、岡亭上特・親シクニテ在リマス

又爲之補任歟。彼、溫厚處憂、然、頭腦明晰、來暮、
忠實ニシテ、上意、命ヲ奉ル、責任、行動ヲ承リ、又時、部
ヲ慰ム、之ヲ責ニ上下、信望ヲ一身ニ聚メテ、成リテ、
彼、來ノ時代、相讓ル、此、非常ニ嬉シ、其心強ク、意ニ成リ
タリ。

今日彼が事件に際して被害者として起訴せられたことが、
 大いに彼に、彼、性格を知り、彼を最も信頼する者となり、
 私に意外の啓示を与えた。

012/16

0502

昭和十七年頃彼が南西方面之森司会長、部下トシセリ
ト、アカルニテ母校主席トモ勤務中獨り學業問題が
課題ニナリテトモ彼に敢て之ヲ反對シ之ヲ中止セリト
云フ故、森司会長が然サレタコトアリマス之、彼、性格、如
實ニ表ハシテ居ルモノト思ハス

若シ彼が父刑ヲ受フルコトニナリタラハ大赤染、故郷、
得テ妻子、悲シニ如何ニカリスルベシト云フモノトモ
私一人暗然タリシヲ得マセン

以上彼、性格、發言致シテ、獨り、

裁判長閣下、御同情ニ御望ミスル次第アリマス

未吉大尉ニ對スル人格證言

被召海軍大尉、昭和十年私が横須賀海軍砲術學校、練習生中隣接分隊、教員トシ、亦昭和十五年軍艦霧島ニ於テ勤務中隣接、分隊士トシ、同時ニ勤務濃厚爲實ニ穩カテ懇切丁寧ト人物ナルト云フ風評ガアリ私モ衛兵等ニ同時ニ服務シ風評カ事實ナル事ヲ知リ信ジテ居ル次第デアリマス

昭和九年三月館山海軍砲術學校ニ於テ防空隊總武同年七月父島六隊同年八月父島方面特別根據地隊編入以來彼、隊長トシ武、分隊長トシテ分隊員ニ對シ懇切丁寧ニ人事或、陣地構築ヲ指導シ部下分隊員二百三十餘名カラ慈父、如ク敬慕サレタリマス

父島ニ於テ勤務中逼迫セル戦況頻繁ナル空襲下傳構築不意、如ク進マズ砲台員大部分が袖無過致ニテ、微細ト事ヲモ直ク立腹シ亦、怒聲ヲ發スル様ニテ當時當砲台、甘木將校ガ彼ニ對シ陣地構築上意見、相異ヲ生シ部下トシ上官ニ

【
對ニアルマニキ暴言ヲ吐キ行動ニ出テ見テ
彼ハ笑顔ヲ以ツテ之ヲ制シテ、デアリマス
コノ様ニ彼ハ強厚ナ平和的人物デアリマス
願ハカニル事ヲ御斟酌下サイマニテ
公平ナル利決ヲ御願ヒスル次第デアリマス

父島方面特別根拠隊付

海軍少尉 宮崎 純章

頼書

此度、延建に赴前より米吉大尉に
不肖の身に貴方ご裁判長閣下御便
頼の申上げを承りし。

私は昭和拾九年二月より終戦時迄米吉大尉の
部下として勤務致して来ましたが、
父島に上陸以来米吉大尉の氣配と云ふものが良
く合いました。

どんな人かと云ふと温厚で、特実な。自分
の部下は非常に可愛がり尚、部下からは非常
に信頼を受けて居る様な米吉大尉が有りました。
其れを特校の同様に面白く圓滿に終るに
かゝる様い思はれまふ。

所、故かと思ふまじしと。下士官兵、を非常、に我が
子の様にかはつてくやなかるなはなれたる、かと私に
思ひまじし。

今年、右の様な次第、有りませ。故、御推察
の上、然るべく寛大なる裁決を賜はらん事を
伏して御頼み申上げます。

昭和貳拾壹年、九月八日。

證人 岩川信種

父島関係裁判長閣下

名海軍大尉 末谷 兼

数 願 一 元 父 海 軍 三 等 兵 曹
若 田 春 市

船 長 末 谷 大 尉 不 能 同 十 九 日 之 月 船 出 海 軍
隊 新 宿 区 新 一 列 隊 長 之 方 其 後 父 島

以上 陸 隊 非常 一 部 下 一 同 一 列 一 下 色 之 親
切 市 指 導 下 二 三 十 三
上 陸 後 被 告 不 孤 遠 令 隊 員 親 如 之 慕 求

王 之 令
大 隊 若 不 武 之 時 不 能 同 一 列 一 下 父 母 之 方
父 母 之 方 非 常 之 意 義 之 一 同 一 下 其 母 之 方
惡 訓 之 言 之 方 指 導 一 下 其 母 之 方

前 述 之 方 被 告 不 孤 遠 一 列 一 下 非常
之 意 義 之 一 同 一 下 隊 長 之 方 之 訓 之 方
取 之 之 方 何 年 市 電 大 之 方
市 裁 量 之 方 之 方 之 方 之 方

市 裁 也 裁 利 表 司 下
多 能 願

歎願書

謹こつてアリマス方御戦争犯罪裁判長並に判士諸官
才願に申アマス

和「今圓ノ文島南洋戦争犯罪被告末吉実郎海
軍大尉トハ一九四五年以降屢々交際し彼ノ人トナリヲ
知り、彼ノ如ク善悪あつて人向か今圓ノ事件ニ連
座して事ヲ急とト共ニ裁判長閣下ノ寛大を忍び置テ
願フモノアリマス

彼ノ性從順部下ヲ容れ上長ヲ尊ビ彼ノ往々所和
氣ノ流す所「アリヤセンデシタ」男想ハ中止ヲ急進ヲ
嫌ヒマシタ、御々願

前任地ヲ去リ退シテ森中將ハ彼が米軍捕虜ニ對

分々住
又島田係

海軍中尉 龍美英考

AFFIDAVIT FOR THE CHARACTER OF FORMER LIEUTENANT, IMPERIAL
JAPANESE NAVY, SUYEYOSHI, JITSURO:

I came to know Lieutenant Suyeyoshi in 1928, when I was acting as instructor at the Naval Gunnery School where Lieutenant Suyeyoshi was a student. After his graduation he was ordered to remain at the school in a provisional increase in personnel. While he was at the Naval Gunnery School he had a good head, was very cheerful and energetic, and would go through fire or water if ordered. What ever hard problems he came up against he proceeded to tackle the problem. He was a person of whom great things were expected. Since then some time has lapsed but I remember him from what I mentioned before.

As we were attached to different units after this time I did not have many chances to meet Lieutenant Suyeyoshi. But when he became commanding officer of the 142 Anti air-craft battery in July 1944, and was sent to Chichi Jima, owing to our previous relations we were very close acquaintances at Chichi Jima. Even after his arrival at Chichi Jima, he was still gentle, sincere, had a good head, was loyal to his duties, and took responsibility for actions ordered by his superiors. He was especially kind to his subordinates and was looked up to by both his superiors and subordinates.

I, for one, who had known him since his youth, felt very happy and reassured his former character I had the utmost belief in him, and when I heard that he had been charged as a conspiritor in this incident I could not believe it.


Suyeyoshi while he was acting as a deck officer under Admiral Mori in the South west area, at Macassar in the Celebes, whenever problems came up concerning prisoners fought fiercely against mistreatment of them and had it stopped. I was told about this by Admiral Mori. I think this shows Suyeyoshi's character very well.

How great the grief of Suyeyoshi's wife and child in Oita prefecture would be if he were to be sentenced to death when I think back on this I cannot suppress my tears.

Above I have testified to his character, and I ask the sympathy of your honor the president of the commission.

Lt. (jg) Miyashita, Tsunegoro.

I certify the above to be a true and correct translation of the original petition of Miyashita, Tsunegoro, in Japanese to the best of my ability.


Eugene E. KERRICK, Jr.,
Lieutenant, USNR
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF LIEUTENANT SUYEYOSHI:

Lieutenant Suyeyoshi, the accused, was an instructor in my neighboring unit when I was a student of the Yokoska Naval Gunnery School in 1935 and was a neighboring divisional commander when I was serving on the warship Kirishima in 1940. He was said to be mild and sincere in his duty, and polite and kind to others. I found this talk was true when I served as a guard and believe it.

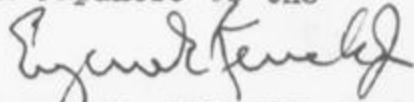
In March, 1944, an anti-aircraft unit was organized at the Tateyama Naval Gunnery School. The unit landed on Chichi Jima in July, 1944, and was attached to the Special Naval Base, Chichi Jima in August, 1944. Since then, he kindly instructed his men as the consulting officer in their personal affairs and their operation of constructing positions. Therefore, he was admired by his 230 subordinates as if he had been their father.

When he was serving at Chichi Jima, the construction of their position did not progress satisfactorily on account of our pressing situation and the enemy's terrible air raids. So his men became nervous and angry at the slightest provocation. Then an officer who was his subordinate held an opinion which was different from his concerning the construction of their position. The officer, in spite of being his subordinate abused him, but he controlled the officer with a smile.

As I stated, he was ^amild and peaceful man. I beg your kind consideration concerning what I have just mentioned and that you deal fairly with him.

Attached Officer of the
Special Naval Base, Chichi
Jima,
Ensign UZAKI, Junko.

I certify the above to be a true and correct translation of the original petition of UZAKI, Junko, in Japanese to the best of my ability.


Eugene E. KERRICK, Jr.,
Lieutenant, USNR,
Interpreter.

PETITION

To Your Honor, the President of the Military Commission:

In spite of my humble position, to the honorable President and members of the Commission, I hereby make this petition for clemency in the case of Naval Lieutenant Sueyoshi Jitsuro, who is being tried before you.

I served under Lieutenant Sueyoshi from February 1944 until the end of the war.

Since I landed on Chichi Jima, I have come to know his disposition well.

Lieutenant Sueyoshi was a broad minded and sincere person, who loved his subordinates affectionately, and was trusted by them. But I have heard that he was not thought well of by his superiors. I believe that this is because he always stood for and defended us, his subordinates, as he would have defended his own children.

I beg that you will take into consideration the character of the accused Lieutenant Sueyoshi and humbly request clemency in your decision of his case.

I
Kwakawa Nobutane,
Chichi Jima Witness,
September 8, 1946. u2

I certify the above to be a true and correct translation of the original petition of Kwakawa Nobutane, in Japanese to the best of my ability. 59K

Eugene E. Kerrick, Jr.
EUGENE E. KERRICK, JR.
Lieutenant, USNR.
Interpreter.

PETITION

To Your Honor, the President of the Military Commission:

Lieutenant Sueyoshi, the accused, was the chief of my unit at the Tateyama Coast Gunnery School. He was then transferred to Chichi Jima Island.

He was very kind to his men after our landing on Chichi Jima Island and was loved by them as if he had been their father. He was a good father for us, and as benevolent as a mother toward us at the same time. He impartially pointed out our faults when we were wrong.

I beg you to take into consideration the fact that he was a kind chief of our unit as I have just mentioned above, and deal leniently with him.

YOSHIDA Haruich

I certify the above to be a true and correct translation of the original petition of YOSHIDA Haruich, in Japanese to the best of my ability.



Eugene E. KERRICK, Jr.,
Lieutenant, USNR,
Interpreter.

CLEMENCY PETITION

I humbly offer this petition to the honorable President and the members of the Marianas Area War Crimes Commission.

Since 1945, I have been an intimate friend of the accused, in this Chichi Jima War Crimes case, Navy Lieutenant Sueyoshi Jitsuro, and I have become acquainted with his character. It is sad that such a well-wishing person was involved in this case, and I beg that Your Honor will be lenient with him.

Sueyoshi was of an obedient nature, and always considerate of his subordinates, so that a warm atmosphere was created wherever he went. In his thinking, he was not radical, but rather conservative.

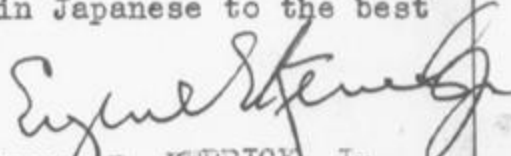
Admiral Mori, who was acquainted with Sueyoshi before they were both assigned to Chichi Jima, told us one day that Sueyoshi had said concerning American prisoners that he was opposed to their execution because they were unarmed and were incapable of combat. Sueyoshi had also emphasized the fact that the regulations set down in International Law must be observed.

The above are Sueyoshi's sentiments, but I have heard that an unfortunate incident occurred in his own unit.

I beg that the honorable president and the members of the Commission will be lenient in dealing with him.

Nomi Hidehiko
Chichi Jima Witness.

I certify the above to be a true and correct translation of the original petition of Nomi Hidehiko, in Japanese to the best of my ability.


Eugene E. KERRICK, Jr.,
Lieutenant, USNR,
Interpreter.

陸軍 陸軍中將 森 中正 対人 格證言

軍政スベキ裁判長閣下 謹ニ申上ゲマス

森 軍曹ハ予備隊一般分隊副長ニ任ぜられ本部諸作業勤整着
トシ本部業務機会カ多ク私ハ直接同僚 森 軍曹ト居リマシタ

森 軍曹ハ千葉縣農村出身ノ家庭ニ在リタル父老イタル父母病弱
ナル妻 幼キ一子ヲ扶養者トシ一家柱トシ居リマシタ 彼ハ純朴
ナル性トシ温厚ニ実ナリ人格者デシタ

諸作業ニ於テハ服務ハ眞面目ヲ熱心ニ只ダ黙シト實行ニ移シ
特ニ昭和二十二年頃ヨリ食糧 定量以下ニ減食ニナリテモ諸作業
ニ服務スル者 暑サト疲労等ニヨリ氣力衰薄ノ傾向ヲ見受ケラレ
又不平事ト偶ニ聞エタル際ニ彼ハ僅ニ白クシ只一人心ニ作業熱中
シアル事ヲ見受ケマシタ 又衛生ニ服務スル際ニ時トシテハ三日乃至

(納堂光國田原)

五日同二日入連續服役身心苦疲し居る時ニ拘まり上司ノ命
 依ル農耕作業ニ所ノ不平モ言ハズ從事し之誠ニ農園作ル上ノ野
 菜ノ收穫ヲ收メタリ 彼ハ上官ニ對テハ從順アリ又自己ノ領ヘ
 ラレタル任務ハ忠實ニ實行スル理アリ上官カラモ信頼厚ク亦我等同
 僚間ニモ信用スル風評モ良シ彼ノレタ
 要ニ森 並曹ハ寧ろ消極的ト述云ハレル程純朴ナル人格者ナ
 リ

宣シテ裁判長閣下彼ノ家庭状況ヲ考慮トシ彼ノ人格ヲ才合
 ミ上情ノ酌量下サヌストウ心カラ御願申上リコト

一九四六年九月二十三日

友島陸軍
 三陸軍曹長 和田 清 昭

米國戦争犯罪裁判長閣下

謝 書

陸 軍

公島關係戦争裁判被告元陸軍曹 森 安 正

此度被告として貴法廷にて裁かれつゝある森安正は父島在島
中は私とは非常に仲が良し戦友でした。それ故私は彼が性質及
人物並に家庭の状況等は唯よりよく知りつつあり
彼は非常に温厚で又無口にて又彼が正直な人でも唯知らぬ者
も有りません。

家庭に父老を両親を抱へる事も有りまして両親は彼がなくなつ
てしまつて氣を狂ひ様にしてゐる人から聞いて世事が有ります。又どうして
こんな事であり下う自分から進んで罪を犯す事が出来ませうか
は何れのためにあるのか信じません。

何事も命令と云ふ二字故にどうもきいたが故になつたと思ふ
何事此の正直な被告の情を以て裁かぬ事を願ひます。

父島證人

兼森一敏

昭和二十一年九月八日

父島戦争裁判長閣下

（高橋公光堂製）

15c (2)

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歎願書

父島戰事犯罪報告人 元陸軍少曹 森 正

在、同部隊、歸成以來一年數ヶ月

、間、私、勤務又、作業上、本、

其、過、誤、が、稀、常、に、誠、良

に、順、た、人、に、概、断、行、爲、に、此、祥、

人、に、有、り、せ、ざ、し、

今、度、審、判、者、が、父、島、関、係、米、軍、事、裁、判

に、附、せ、ら、れ、ら、る、を、知、り、私、に、同、情、を、思、ひ、

希、者、に、成、ら、る、行、爲、に、何、に、知、り、ま、せ、

止、ま、ら、し、と、北、方、成、さ、る、事、に、私、に、信、に、

願、は、裁、判、長、閣、下、以、下、関、係、者、

御、厚、情、を、賜、り、釋、放、一、日、早、か、く、之、を、祈、
歎願致し

父島関係戰事犯罪裁判長閣下

歎願者 父島陸軍元陸軍少曹

森 正



海軍本林殿
又申上之儀、此下サハ
額申ツテ有リ也
是レ以テ、少シガ人ト
令セヨ。本人ハ大ニ
荒ル、又三ノ本ハ大ニ
三年保、其金ハ大ニ
又不、海軍本林殿申上
私法、其本、度、喜申上

歎願書

陸軍

此度貴法廷に起訴され陸軍軍曹木村安正に對して不省の躬を省みす裁判長閣下並に貴係諸官に御願申上ります。

私は三〇八大隊本部で約一年間一緒に暮して参りました。

森軍曹は非常に内氣な柔順な性質でした。同僚間には受けの良い決して事々様な事はありませんでした。部下からは班長として兄の如く慕はれた彼でした。

彼森軍曹は農家で老いた父母と妻と子供の五人暮して子供は可愛いのを。余り樂な生活でないので無事な軍務を終へ一日も早く家庭の人となり親に樂をさせた。いと常口語って居りました。

15f (1)

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此の様な柔順な親思ひの彼が好んで罪を犯しませう。
只、上官の命令に服したのみです。
何卒此の矣御考案の上、然るべく寛大なる裁決を賜は
らん事を伏して御願申上げます。

父島証人 杉山 喜一

昭和三十年九月八日

父島戦犯裁判長閣下

歎願書

被告元陸軍軍曹 森 安正

右者、昭和九年八月独立歩兵第三百大隊第三中隊司令
 備少隊要員トモ視屬セリ本部附止ニ宿舎ニテ中
 月中夜逃本部、指揮隊機銃隊ニ對シタル等凡
 作業ニ從事シタル其、服務振リ、熱心ニ其面目
 從事シ居ン所ヲ觀メタリ、特ニ三月頃より食糧定量
 下ニ減食サシ以來、作業負ハ暑サト疲勞、多ク各作業
 ニ氣乗薄、傾向アタル際モ支軍曹ハ蔭日向ナリ
 率先黙々ト專心努カス、又部隊衛兵ニ服務セリ際モ
 ニ日乃至五日間、連續服務デハ身苦ニ疲シ居ン際モ
 何、不平モ言ハス上、司、指示ニ依リ農耕ニ協力シ衛兵ニ
 立派ニ農園ヲ作リ野菜、收穫ヲ見タリ、之ニ支軍曹
 白取ヨリ極々其面目アリ又上、司ニ對シテ如何ニ從順デ
 タカガ同シマス哉等同僚間、凡、評モ立派デナリ、カ、レ
 森軍曹ガ此、度犯リ行爲、自身カラ、意志ハ全ク
 ナク只勤カスベカラシ命ニヨリ止ム得ズ犯シタヌト堅
 ク信ジマス
 何卒裁判長閣下迄關係諸官、御寛仁ナル制裁量ヲ才願ヒ
 申上げマス

昭和三年九月十日

元又司陸軍
 元陸軍軍曹長 和田清右

米國戰犯裁判長閣下

謝 願 書

父島戦争犯罪被害者 元陸軍 小林 安正

右は呂宋に依り司令部に編成に成りたる者であります
昭和七年三月十日父島系島母島に上陸 母島 守備
隊員として同地にありて私起居を同く致しました
早速分隊長 命がけを蒙り 小林君は千葉縣下
の農家出身で非常に温順で正直で隊長以
下に信頼され居ました なぜならば 小林君は何事
も黙々と 上司の服従を厳守し任務を遂行
致し人並以上の成果を挙げたる事は 小林君
の美點のひとりで 私は喜ぶ存であります
其の教習が稍々積極的であつたといふ旺盛
なる風概がはつきり時々人々へも耳に私に下
した而此の他人の発言も私はあまりにも温順
であつたから私は信じます 同年六月司令部
は母島を離れ父島に転用致しました 司令部
の編成改正に依り別個の司令部に
編成されましたが司令部なる故 小林君は日々

昔樂主同之致₍₂₎した本林君は父島在隊

間₍₂₎に己母島より₍₂₎以上₍₂₎守備諸勤₍₂₎放₍₂₎に₍₂₎黙₍₂₎々₍₂₎成果₍₂₎を₍₂₎挙げ₍₂₎たる₍₂₎事₍₂₎は₍₂₎我₍₂₎々₍₂₎他₍₂₎々₍₂₎認₍₂₎め₍₂₎る₍₂₎

處₍₂₎であ₍₂₎り₍₂₎過₍₂₎順₍₂₎なる₍₂₎森₍₂₎君₍₂₎が₍₂₎此₍₂₎度₍₂₎父₍₂₎島

南₍₂₎侍₍₂₎米₍₂₎量₍₂₎々₍₂₎事₍₂₎裁₍₂₎判₍₂₎に₍₂₎付₍₂₎せ₍₂₎ら₍₂₎れ₍₂₎あ₍₂₎る₍₂₎を₍₂₎

知₍₂₎り₍₂₎在₍₂₎隊₍₂₎間₍₂₎森₍₂₎君₍₂₎が₍₂₎思₍₂₎ひ₍₂₎將₍₂₎々₍₂₎私₍₂₎は₍₂₎唯₍₂₎々₍₂₎

同情₍₂₎の₍₂₎念₍₂₎が₍₂₎わ₍₂₎く₍₂₎あ₍₂₎り₍₂₎本₍₂₎林₍₂₎君₍₂₎が₍₂₎成₍₂₎なる₍₂₎行

爲₍₂₎は₍₂₎私₍₂₎の₍₂₎知₍₂₎り₍₂₎ま₍₂₎だ₍₂₎嚴₍₂₎格₍₂₎の₍₂₎命₍₂₎令₍₂₎に₍₂₎依₍₂₎り₍₂₎止

む₍₂₎に₍₂₎止₍₂₎れ₍₂₎ず₍₂₎致₍₂₎方₍₂₎な₍₂₎く₍₂₎成₍₂₎なる₍₂₎行₍₂₎爲₍₂₎に₍₂₎推₍₂₎察₍₂₎

教₍₂₎時₍₂₎私₍₂₎に₍₂₎す₍₂₎

願₍₂₎は₍₂₎裁₍₂₎判₍₂₎長₍₂₎官₍₂₎一₍₂₎下₍₂₎諸₍₂₎閣₍₂₎侍₍₂₎者₍₂₎に

御₍₂₎厚₍₂₎情₍₂₎に₍₂₎さ₍₂₎が₍₂₎り₍₂₎一₍₂₎日₍₂₎も₍₂₎早₍₂₎く₍₂₎森₍₂₎君₍₂₎が₍₂₎青

ば₍₂₎り₍₂₎日₍₂₎あ₍₂₎る₍₂₎を₍₂₎祈₍₂₎り₍₂₎歎₍₂₎願₍₂₎致₍₂₎す₍₂₎

昭₍₂₎和₍₂₎二₍₂₎年₍₂₎九₍₂₎月₍₂₎に₍₂₎

歎₍₂₎願₍₂₎者₍₂₎

父₍₂₎島₍₂₎陸₍₂₎軍₍₂₎元₍₂₎陸₍₂₎軍₍₂₎重₍₂₎事₍₂₎長₍₂₎

父₍₂₎島₍₂₎戰₍₂₎死₍₂₎生₍₂₎死₍₂₎罪₍₂₎裁₍₂₎判₍₂₎長₍₂₎官₍₂₎に₍₂₎

父₍₂₎島₍₂₎戰₍₂₎死₍₂₎生₍₂₎死₍₂₎罪₍₂₎裁₍₂₎判₍₂₎長₍₂₎官₍₂₎に₍₂₎

父₍₂₎島₍₂₎戰₍₂₎死₍₂₎生₍₂₎死₍₂₎罪₍₂₎裁₍₂₎判₍₂₎長₍₂₎官₍₂₎に₍₂₎

父₍₂₎島₍₂₎戰₍₂₎死₍₂₎生₍₂₎死₍₂₎罪₍₂₎裁₍₂₎判₍₂₎長₍₂₎官₍₂₎に₍₂₎

父₍₂₎島₍₂₎戰₍₂₎死₍₂₎生₍₂₎死₍₂₎罪₍₂₎裁₍₂₎判₍₂₎長₍₂₎官₍₂₎に₍₂₎

23 September 1945.

When I was serving at the Headquarters of the 308th Independent Infantry Battalion on Chichi Jima, Sergeant Mori was in the reserve section. AK

It was recognized from his general conduct that he was a man of very gentle and sober habits.

I should like to give this little incident as an example; one day, when I was in charge of a certain water storage construction, I ordered Sergeant Mori to put his squad to the work and supervise them. As he came back with his men to report the completion of the work, I found out that the order had not been carried out satisfactorily and I blamed him for it. At this, he ordered his men back to their quarters and then proceeded to the site of the construction to finish the job all by himself and kept on working there until it was too dark to do more.

This fact, I believe, attests to a few of his merits:

He was very responsible on one hand; on the other, however, he was so conscientious that he did not call the squad back to the work after hours.

Also, he invariably kept within bounds.

His personality is representative of young farmers, being so simple-hearted, quiet and unpretentious.

TOSHIO KUROSAWA,
EX-2nd Lt. Intendent.
Attached to;
308 Independent Inf. Batt.
Chichi Jima

I certify the above to be a true and correct translation of the original petition of Toshio Kurosawa, in Japanese to the best of my ability.

Eugene E. Kerrick
EUGENE E. KERRICK,
Lieutenant, USNR.
Interpreter

To Your Honor, The President of the Military Commission.

AFFIDAVIT FOR THE CHARACTER OF SERGEANT IJA, MORI YASUMASA:

I humbly place the following affidavit before Your Honor, The President.

I was associated with Sergeant MORI, as he was attached to the reserve unit and, therefore, had chances to come to the headquarters for working.

He was a native of a farming village in Chiba Prefecture where he had supported his aged parents, sick wife and a young child. He was guileless, mild and sincere.

He was honest and earnest in carrying out his duties during working hours. Since March 1945 our rations became short so that those who engaged in operations were apt to grumble about their jobs on account of heat and fatigue. However, I always saw him working earnestly. Our watches, then, used to continue for three to five days which caused us to be tired out. But he was willing to engage in farming operations even after being on watch. He was obedient to his superiors and carried out anything ordered. Therefore, he was loved and admired by his superiors as well as his comrades.

In short Sergeant MORI is a guileless person which sometimes makes us feel that he is rather conservative.

Your Honor, The President of the Military Commission, I beg your kind consideration of what I have just mentioned about his family circumstances and character.

Former Sergeant Major IJA
WADA Kiyoji.

I certify the above to be a true and correct translation of the original petition of Wada Kiyoji, in Japanese to the best of my ability.

Eugene E. Kerrick
EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION

To Your Honor, the President of the Military Commission

MORI Yasamasa^u, who is now being tried at your tribunal, was my intimate friend when I was at Chichi Jima. Therefore, I know his nature, personality, family conditions, etc., better than anyone else. He was gentle and a man of few words; everyone knew him to be honest.

He has his aged parents and his wife at home. I've heard from someone that his parents were almost insane in their anxiety after he was mobilized. Can a man in such a circumstance commit a crime of his own accord? I really did not understand at first why he was sent here.

I think he was compelled to do so because of orders from his superior. I humbly beg you to deal leniently with him.

KANEMORI Kazutoshi

I certify the above to be a true and correct translation of the original petition of Kanemori Kazutoshi, in Japanese to the best of my ability.

Eugene E. Kerrick

EUGENE E. KERRICK,
Lieutenant, USNR.
Interpreter.

PETITION

To Your Honor the President of the Military Commission.

After our unit was formed, I lived with the accused Mori, Yasumas^u a year and some odd months, and during that period, we served and worked together. Sergeant Mori was a sincere and obedient person, and not the type who would have acted of his own free will. 296

I have just learned that my friend Mori is to be tried before a military commission and desire to express my sympathy, though I do not know what crime he has committed. He must have acted because he had no other alternative.

I beg that the honorable President and members of the Commission consider his case carefully and make him a free man as soon as possible.

Takahasi Sawakichi,
Former Sergeant, IJA.

I certify the above to be a true and correct translation of the original petition of Takahasi Sawakichi, in Japanese to the best of my ability.

Eugene E. Kerrick Jr.
EUGENE E. KERRICK, JR.
Lieutenant, USNR,
Interpreter.

PETITION

To Your Honor The President of the Commission.

I am one named Sasamoto Keiki. I have known Mr. Mori of the Navy for about three years. He was very kind to people, and I do not know for what reason he is being tried as a war criminal.

I beg that you will forgive him.

Sasamoto Keiki.

I certify the above to be a true and correct translation of the original petition of Sasamoto Keiki, in Japanese to the best of my ability.

Eugene E. Kerrick

EUGENE E. KERRICK,
Lieutenant, USNR.
Interpreter.

PETITION

To Your Honor, The President of the Military Commission:

I humbly offer to Your Honor, The President and the Members of the Military Commission my petition concerning Sergeant IJA MORI, Yasumasu who is among the accused in the trial.

I lived with him for about one year at the 308th Battalion Headquarters.

He was timid and gentle in nature. He was loved by his comrades and never had quarrels with them. As the head of his squad he was also loved by his soldiers as if he had been their elder brother.

He was a peasant, and his family consisted of his aged parents, wife and a child. He used to say that he loved his child, and that since his family's life was not easy, he wished to go back home and make his aged parents comfortable.

Can a man who is as gentle and filial as Mori commit a crime of his own accord? He only obeyed the order of his superior.

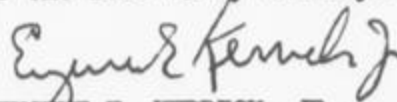
I beg your kind consideration concerning what I have just mentioned and deal leniently with him

8 September 1946

SUGIYAMA AKIRO

Chichi Jima Witness.

I certify the above to be a true and correct translation of the original petition of Sugiyama, Akio, in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.
Lieutenant, USNR,
Interpreter.

PETITION


To Your Honor, The President of the Military Commission:

The accused in this case, former Sergeant IJA, Mori, Yasumasa was ^{1st} transferred from the third company of the Independent Infantry 308th Battalion to the reserve platoon in August 1944 and was stationed near the Headquarters. He was engaged in constructing a reservoir and building a command post entrenchment until mid-August, 1945. His attitude toward his work one of great sincere earnestness and diligence, which was recognized by all. Especially, after March, when the food ration was greatly reduced, the personnel on these working duties often lost efficiency because of the heat and fatigue. Nevertheless, Sergeant Mori kept up his good work silently. For example, there is the time when he went on guard duty, stood the post three to five days in succession, and was exhausted physically and mentally. Even under such strained conditions, Sergeant Mori did not utter a word of complaint. Though he was a guard, he cooperated in the farming work, and he made a fine piece of farming land, and produced an excellent crop of vegetables, thus fully carrying out the will of his superiors. I believe that this shows clearly how obedient and diligent Sergeant Mori was in executing his every day duties. He had an unblemished reputation among his colleagues. Accordingly I firmly believe that the act with ~~for~~ which Sergeant Mori is being charged was carried out under strict orders of his superior, and not in any way by his own will. u k

I humbly beg for the lenient verdict of Your Honor and the Honorable Members of the Military Commission.

Wada Seiji
Sergeant Major, IJA
Formerly of the Chichi
Jima Army Forces.

I certify the above to be a true and correct translation of the original petition of Wada Seiji, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter.

PETITION

To Your Honor, The President of the Military Commission:

^SThat accused in this Chichi Jima war crimes trial, former sergeant, IJA, ^{but} ~~Mori Yasumasa~~, and I were in the same company after we were called into ^{ERK} military service. We landed on Haha Jima in the Bonins on March 10, 1944 and lived together as members of the Haha Jima Guard Unit.

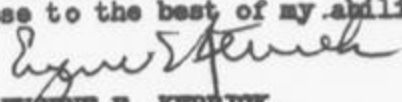
Sergeant Mori was immediately appointed a squadron leader. Mori came from a farm village in Chiba prefecture, and was very honest and obedient, and was trusted by everyone from the unit commander on down. This was because Mori carried out his superior's orders without hesitation and argument, and achieved unusual results by his work. I am one who finds it a pleasure to say that this was only one of Sergeant Mori's fine points. ^{ERK}

Though I heard people say that they wanted Sergeant Mori to be more spirited or more positive, I believe this was because Mori was so gentle and obedient. In June of the same year, our company was transferred to Chichi Jima. There our unit was reformed, and although we were assigned to different companies, as we were both in the same battalion, we shared our joys and sorrows together. During this period of service on Chichi Jima, Mori was even more diligent in silently carrying out his duties and this virtue was recognized by all. We have nothing but compassion for him, when we learn that this Sergeant Mori is to be tried before an American Military Tribunal on the Chichi Jima War Crimes incidents. I do not know what his acts were, but I am one who believes that it was done under stern orders, and he had no other alternative but to do so.

I beg that Your Honor will sympathize with him in his case and be lenient, and that Sergeant Mori will be able to be a happy man once again very soon.

UCHIMURA FUKUMATSU
Former Sergeant Major, IJA
Chichi Jima Army Forces

I certify the above to be a true and correct translation of the original petition of Uchimura Fukumatsu, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

TACHIBANA, YOSHIO et al.

(154578)
PART 3 OF 4

9350

歎願書

陸軍

今貴廷ニテ公明正大ナル御下ノ裁ヲ受ケテ
其被旨元海軍中尉増谷真一ト私ハ約一年半
同レ隊ニ居テ者デアリマス
増谷中尉ハ眞面目ナ人デ隊全員カラ評判モ
非常ニ良ク性質ハ稼備士官トシテハ珍ラシイ
無ロデ夢チイテ何時モニコトシテ非常ニ感シ
ノ哀キ人デ常ニ部下ヲ愛シ又一々ノ氣ヲ
使ツテ下サツタ人デアリマシタ
増谷中尉ハ我々部下ノ爲ニ同令カラ叱ラレタル事ヲ
度々有リコレヲ又我々部下ハ非常ニ尊重シ
テ其ノ彼が行ナク事件ハ彼が行ナクノデナラ
軍隊ノ嚴重ナル命令ガナシメタモノト私ハ強ク
信ジテ居マス

任平席下生。度係諸官ノ如慈愛ニ依リテ寛入ス
共裁可ヲ賜ランコトヲ希願申上ゲマス

父老通信隊

海軍二真兵曹 栗城六郎

裁判長閣下

(西橋公見堂納)

増^{海軍}谷中尉^二對^二人格證言

元海軍尉渡邊竹次郎

温厚從順^ニニテ極^ニミ眞自面^ニル青年^ニアラス
東京帝國大學^ヲ卒業^シ其^ノ後軍籍^ニ入^リシ
海軍豫備士官^ニア^リシ^ニ長^ニ取^ニ高^ニ教^ニ育^ニ受^ケテ
モ拘^ルス常^ニ謙^ニ讓^ニル態度^ニニテ其^ノ自慢^{スル}
様子^ハ絶^ニ對^ニニテ上官^ノ命令^ニモ非常^ニ從^ニ順^ニア^リシ
命令^ニ對^ニスル不平等^ハ一度^モ聞^ク事^ナク
命^ヲセ^ル事^ヲ明^ニ目^ニ持^テ越^スト^ル事^ハ殆^トナ^ク
全部^ヲ終^ルカ^ラ休^ム方^針ヲ^シテ眞自面^ニル
性格^ヲ現^ス一^例ト^シテ或^レ時^ニ命^ヲセ^ル仕^事ガ一^日ヲ終^ルス
終^ニ夜^ニ作^業ヲ續^ク翌^朝終^ルヲ漸^ク司令^ニ忠^ニニテ來^テ
寢^{不足}充^血シ目^ヲ満^足シテ微笑^セテ居^ル事^モ
部下^ヲ愛^スル事^モ非常^ニ強^ク親^切ナ^リ且
徹^底的^ニ長^男ヲ^シテ相當^ノ苦^勞ヲ經^験シテ元
閨^係上^細部^ニ至^ル迄色^々ト指^導シテ居^ルニシテ
從^テ部下^カラ非常^ニ尊敬^セラル^ル其^ノ親^シイ兄^ニ
對^{スル}如^キ肉^親的^{ナル}ニテ^シテ持^テ居^ルニシテ
今^次戰^争ノ原^因ガ米^國ニ對^{スル}認^識不^足ニ依^ル
事^ヲ力^ヲ説^ク英^語ノ必^要ヲ説^ク多^ク也^ハ仕^事ノ餘^暇
英^語講^習會^ヲ開^キ自^身教^者ト^シテ親^切丁寧^ニシ

歎顔書

今回合同裁判に起訴され、被告元海軍中尉
 増谷貞一。私は通信隊本部より一語に居りまし
 ゃが、陸軍の事と云ふことは、青年学徒徒の士官
 としての模範ある殊な人、終始一貫、良く部
 下を可愛がり、部下の女めには自らやらせぬこと
 下司令に良く注意、又はこの言はし、指さの
 を見ることし、ばし、ば有る位
 可なり、すすかしや、いり、下無日、ふ佐、陸、つつも、は、こ
 く、威んじりの良人、とし、又。
 此の殊な人が、今回、殊な、事件、を捲起し、ぬとは、
 何故か、それは、日本軍隊に依り、上、官の命令と
 言ふ言葉、は、い、ば、ら、れ、や、つ、ぬ、行、勇、と、私は、確、く、信
 ずる、もの、です。 外、彼の、見、は、自、ら、や、る、と、言、性

軍隊の命令と言ふ言によつてやうな行爲なれども
私はここに謹んで裁判長並に判士諸君に
は神聖なる法廷に於ては寛大なる心裁決を心
より乞願いたします

昭和二十一年九月十日

海軍二曹 鈴木一徳

父島関係戦争犯罪裁判長閣下

謝 願 書

裁判長閣下 並 関係官各位 へ お願いです。
父島関係戦争犯罪人として起訴せらるる
増谷 兵一 へ お願いがアリス。

私と彼とに 一年有余、交際して彼、人柄が
如何に純真で、田舎 にも面目 十分に
知れり。又 彼が如何に職務に忠実で、
良平に海軍士長たる力と能力とが
知れ、トが出来り。

當時我々は 實に海軍士長とは「上官、命令、
如何に遵法スルカ」を教訓せしめて来たもので、
意見具申等思ひに寄らず。彼が戦争中
事、軽重を問はず 吉井司令、俊嚴なる命令、
全幅速かに履行せしむ得た方と信じてアリス。
此、結果として此度起訴せらるる事件
を発生したとスレバ、彼に同情すべきと、言ふアトも
有る。

裁判長閣下

何卒將來 有望なる 生徒に計し、御寛大に処置
を取らして下さる一途に お願い申し上げます。

海軍中尉 長谷川 成年

此の様に彼が命令なくして國際道徳に
背く如き行爲は一寸たりとも行へる彼では
有りません。

若し彼が万一にも罰に値する行爲を—たに
—しても全く彼の意志でなく、厳正なる命令
に反する事がおきます免かれ得るからです。
然るに彼は戦争犯罪人として法廷に
立たされて居ります。

此れを知りて我々は實に悲—しみ歎—きに堪へる。
以て等です。

何卒未だ君に彼に対し、苛寛なる處置を
取らぬ事を伏してお願い申し上げます。

元父島海軍通信隊

椎名正平

グアム島裁判長閣下。

父島方面関係裁判長岡下

被告元海軍中尉増谷真一に因する数願書

謹しんで申し上げます。私は只今岡下の前で裁判
をうける元海軍中尉増谷真一の部下の一人
です。故に彼の性格を熟知している小生の證言が
岡下の厳正なる裁判に幾分なりと取り上げられ
依つて岡下が増谷真一氏を寛大に裁判であ
られん事を祈願致します。

増谷氏は若き士官にしては珍らしい位、實に
温良、純情で常に慈愛を以て部下に接
しました。亦責任觀念が強く、上官の命令は
絶対服従。どこ迄もやり抜くと云ふ性質でした。
彼が上官より命令されて指揮者として作業を
する時にも彼は自身から進んで物事をやり
抜きました。

書 願 歎

謹を裁判長閣下並に判士諸官に對し父島關係戦争
裁判被告元海軍豫備中尉増谷真一に付て御願申
上げます

増谷は約半年間 私の下に勤務した者でありますか
彼は實に温厚誠實且つ極めて實直な人格者であ
り、^{生前}同僚士官からは信頼せられ部下一同からは敬服せ
られて居た人物であります

他方日本海軍の一般環境は彼の如き若年の豫備
士官の地位を極めて輕視して居たのであります。彼等の
發言權は殆ど無力でありました

殊に事件當時彼の上官たりし吉井元海軍大佐は
自己の發した命令を實行せしむるに當つては極めて嚴格
な人であつたと聞かれています

此の様な状況に於ては彼は吉井元海軍大佐の命令
に對しは單なるロボットと成る外致し方無きものと心得て
居ます

即ち此の際の彼は彼自身に非ずして寧ろ吉井元海
軍大佐の身体の一部に過ぎないと云つても過言には無
いと思はれるのであります

裁判長閣下並裁判士諸官

何卒如、其充介情狀御斟量、上 増谷真一 對、
寛大に御裁判之賜、至事に御願申、上 至

昭和二十一年九月八日

海軍少佐

篠田 一郎

父島關係戦争犯罪裁判裁判長閣下

歎願書

謹ヒテコリアナ方面戦争犯罪裁判長並ニ判士諸官
ニ万願ニ申上げマス

私ハ今回ノ文島肉弾戦争犯罪裁判被告、海
軍中尉増谷真一ト稱一年以上ニ亘リ交際シソノ
人格思想ヲ知り又彼トハ大學ヲモ同期海軍ニ於ケル
任官モ同期トシテ彼ノ立場モ充分理解スル事加出来マ
ス故ニ彼ニ寛大ナル判決ヲ与ヘレン事ヲ歎フモノデアリ
マス

彼ハ一九四三年九月東京帝國大学法学部ヲ卒業
スルト同時ニ海軍ニ入り四年八月海軍中尉任官ト
シテ任官ノ同時ニ文島通信隊附トナフタモノデアリマス

179.1

290

加日本海軍ニ於ケル予備士官ノ使ハ浅ク海軍一
般ノ予備士官ノ地位ハ低ク發令權ハアリマセデレタ
且當時ノ通信隊司令吉井中佐ハ此等ノ若年將
校ニハ極メテ嚴格デアリタリテ司令ハ絶対テ
意見具申ノ余地ハアリマセデレタ 此等ノ事ハ通信
隊ニ於テハ私ノ知人カラ聞イタ事アリマス
而シテ學生出身ノ將校ハ軍人トシテ特ニ要請セラ
レノハ軍人特ニ命令ノ絶対服従トシタ事ヲ其ノ強固
ハ康ニ學生出身ノ將校ノ意見具申ハ軍人精神
ノ缺如ニ歸スラレテ却下サタ事ハ習慣的デアリマシタ
又當時ノ文島ノ一版輿論ハ敵國捕虜ニ對シテ決
シテ良ハ感情ヲ持ツテ居マセデレタ
之等ハ

一連日、爆風による人、物、被害及び強ト徹夜
 戦備作業及減食等ニ由ル神經麻痺及敵
 愾心

ニシテ一ナリカハ依ル敵國増悪感助長 特ニ

米國兵ノ加力カニ於テハ白軍捕虜、虐殺、及
 太平洋諸島内ニ於ケル白軍死体毀損事件
 等ニ由來スル國民感情ヲアリマス

澳論加力ノ如クアリ。且司令ノ命令ハ嚴テアリマス
 カラ一若年將校ニ之等ニ抗スル事ハ出来ズ
 之ニ及シタ場合ハ澳論及以嚴格ナ司令ヨリ國賊
 ト呼ビシ將校トシテハ事實上ノ自殺ヲ意味セマス
 一年以上ノ交際ヲ私ハ彼ハ極メテ温健中庸ノ
 男兒ヲ特ニアリ。善意者々々内氣ナ青年ナリ

172.3

392

アリ 自ら進んで人ヲ増悪ニ利ヘ殺害スル知キ人
物ヲハヤシ事ヲ知悉シテ居ル
和ハ彼ノ人トナリ知リ彼ノ思慕ヲ知リ彼ノ通
信隊ニ於ケル立場ヲ充分理解シ得ル加叔ニ
裁判長閣下 並ニ判士諸官
被告増谷英一ヘの寛大なる処置ヲ欲ス
請フ次第アリマス
昔日マコラノマリカガ罪ヲ犯シ人々ノ殊刑カラ
イマス依リ救ヒ後・神ヘ絶対ノ信仰ニ入リ
得タ如ク 一衣隠ヒラテ人達ヲ遇テ犯シタ彼ガ
許サレ後人達ヘ絶対ノ忠誠者トナル事ヲ信シ
且期待多シムセン
カハ假使 海軍中尉 能美英彦

176.4

523

歎願書

今回貴法廷ニ起訴サレタル元海軍中尉増谷真一ニ関シ私ハ不省ノ身ヲモ省ミズ裁判長閣下並ニ

関係諸官ニ法頼ヒ申上ゲマス

私ハ通信隊ニ被害増谷中尉ト一語ニ居タ者デ

アリマス彼ハ人々ヨリ非常ニ信用厚ク温厚ナル

人デ部下ノ罵ニハ自分ヲ犠牲ニスルト云フ様ニ非常

ニ部下ヲ可愛かり且迄ハ常ニよくトシテ

非常ニ感ジノ良人デシノ一方部下カラハ非常ニ

尊敬サレ且信頼サレテ居リマシタ彼が罪ヲ犯ス

ト云フ事ハ到底考ヘテナイアトデアリマスモレ彼ガ

罪ヲ犯シタトスレバ其レハ命令以外何モ無クノ

デアリマス軍人トシテ軍隊ノ上官ヨリ命令被ル

分平彼ノ心中ヲ酌量ノ上寛大ナル法裁決

ヲ賜フシテ又シテ閣下並ニ関係諸官ニ
法顧問ニ申上ルル次第アリマス

文部省通達係

海軍一等兵士坂本馨

裁判長閣下

176 2

395

0553

PETITION

I lived in the same unit for about one year and a half with this former Lieutenant (jg) Masutani, who is among the accused in the Chichi Jima war crime case.

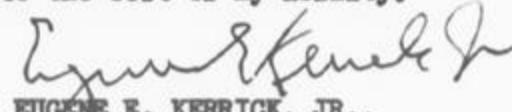
Lieutenant (jg) Masutani was an honest man and had a fine reputation among the people of the unit. He was a man of few words as a reserve officer, always amiable and pleasing and loved his men very much.

He has often been scolded by the commander, for his kindness toward us was thought unpleasant by the commander. I believe that he, who was respected by us cannot do such a thing but that the strict order of our Navy obliges him to commit the crime.

I beg that you will take into kind consideration what I have just mentioned above and deal leniently with him.

KURIKI, Rokuro
Petty Officer Second Class
Chichi Jima Communication Unit.

I certify the above to be a true and correct translation of the original petition of KURIKI, Rokuro in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF FORMER LIEUTENANT (JG), IJN, MASUTANI

He is a mild obedient and honest person. After graduating from the Tokyo Imperial University, he entered the Navy and was appointed as a reserve officer. Though he had received the highest education, he was never proud of it and was obedient to his superiors. I never heard him complain about the orders. He never put off till the next day what he was ordered to do. Once he could not complete a task, which he was ordered to do in the daytime, and continued the work all night till at last he could finish it. Then he reported it to the commanding officer. He told us the above with a smile in his eyes which were bloodshot from working day and night. I think this is a good example which shows you the nature of his character. He loves his subordinates very much. He was kind and carried out everything thoroughly. Since he was the eldest son and had heavy responsibilities and was respected and admired by his subordinates as if he were their elder brother.

He told us that the cause of the war had been due to our lack of understanding and appreciation of the U.S., and that it was necessary for us to know English. He was kind enough to teach us English when he had time to spare and was thanked often by his subordinates. I believe this was a good example of his kindness to his subordinates. I am one who received his instruction.

He was a man of few words and tried anything by himself without any complaint. When our provisions became short, he was the first to take a hoe and help the soldiers to cultivate a small plot of land. Thus he succeeded in calming the raging minds of his subordinates.

He was very obedient to his commanding officer. If I, who was inexperienced, had been in his place in the Navy, I should have done as he did.

WATANABE, Takejiro
Former Lt(jg), IJN

I certify the above to be a true and correct translation of the original petition of WATANABE, Takejiro in Japanese to the best of my ability.

Eugene E. Kerrick, Jr.
EUGENE E. KERRICK, Jr.,
Lieutenant, USNR,
Interpreter.

PETITION

To Your Honor, The President of the Commission.

I hereby humbly submit my petition requesting clemency in the case of Masutani, Shinichi, who is one of the accused in the joint trial now taking place. I served at the radio station headquarters under him, and can say that he was of a quiet and refined nature, and was a pattern for student reserve officers. He never failed to show his love for his subordinates. I have seen him receive harsh words from the commanding officer many times, because he tried to shield his subordinates.

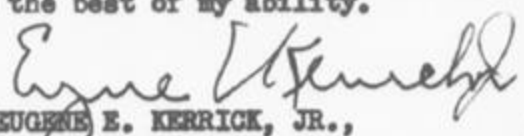
He was of a shy disposition, and was not talkative. He always bore a cheerful smile and was liked by all.

I believe the reason that such a person became involved in this incident is because he was forced to carry out this act under strict orders, from which he had no means of escape. He is absolutely not the type of person that would have done such a thing of his own free will.

As this act was done under orders, I beg that you will take these extenuating circumstances into your consideration and be lenient in your decision.

Suzuki Kazuneri
Petty Officer 2/c, IJN
September 10, 1946

I certify the above to be a true and correct translation of the original petition of Suzuki Kazuneri in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

To Your Honor, the President of the Military Commission.

Petition for Clemency in the Case of Masutani, Shinichi.

I hereby submit a petition to Your Honor and the honorable members of the Military Commission. This petition is for clemency in the case of Masutani, Shinichi, who is being tried for a war crime before your court.


I have had the experience of associating with him for a period of over a year, and have gained thorough knowledge of his well-rounded, earnest and unblemished nature. I also learned how faithful he was to his duties, and the vigorous efforts he was making to become a better naval officer.

At that time, we had been taught the rule that a good officer was determined by "how strictly he observes his superior's orders", and did not even dream of presenting his own opinions when ordered to do something. During the war, I believe that he was forced to carry out commanding officer Yoshii's orders swiftly and in their entirety, whether they were of a light or serious nature. This incident resulted from this cause and I am one who is confident that he is worthy of sympathy.

Your Honor, the President of the Commission, I beg that you will be lenient in deciding the case of this student who ~~was~~ ^{has} bright future before him.

HASEGAWA, KAZUTOSHI,
LT.(JG), IJN

I certify the above to be a true and correct translation of the original petition of Hasegawa, Kazutoshi in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

To your honor the President of the Military Commission.

Petition for Clemency in the Case of former Lieutenant (jg), IJN,
Masutani, Shinichi.

I humbly place this petition before you. I am one of the subordinates
of former Lieutenant (jg), IJN, Masutani, Shinichi. I am one who knows his
character well and I beg you to approve my testimony and deal leniently
with him.

For a young officer, he was unusually pure and benevolent to his men.
His sense of responsibility was strong, and he was obedient to the orders
of his superior. He carried out anything. He was willing to work as a
leader when he was ordered to do so.

He would not dare to violate international law unless he was ordered
to do so. If he committed a deed worthy of punishment, he did not do so
of his own accord. He could not stand against the strict orders, nor es-
cape from them.

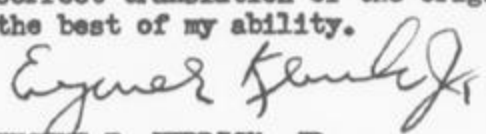
However, he is now being accused as a war criminal.

We are very sorry for him, as we know him well.

I beg that you will deal leniently with him.

SHIINA, Shohei
Former Naval Communication
Station, Chichi Jima

I certify the above to be a true and correct translation of the original
petition of SHIINA, Shohei in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

PETITION

To Your Honor the President of the Commission

I humbly submit before your Excellency the President of the Military Commission and its honorable members my petition concerning the accused in the Chichi Jima War Crimes Trial, former Lieutenant (jg), Reserve Officer Masutani, Shinichi.

After I became the commanding officer of the Naval wireless station, he was my subordinate as the executive officer of the aforementioned unit for about six months. Actually the entire burden of running the wireless station was placed on his shoulders. Especially after the war ended, he carried out without fail the important duty of maintaining wireless communication with your forces. I believe that the reason he accomplished this without error is because he was so gentle and earnest and faithful to his duties and because he was respected by all of his subordinates.

On the other hand, usually the Japanese navy did not have much use for reserve officers, which he was, and I have heard that they had almost no authority at all to speak out. Captain Yoshii, who was his commanding officer at the time of the incident, was extremely severe in having his orders executed.

Under such circumstances, I can only believe that he was a mere robot acting according to Captain Yoshii's orders. In other words, he was not himself, but rather a part of Captain Yoshii's own body itself.

Your Excellency, the President of the Commission and the honorable members of the Commission, I beg that you will take into your kind consideration the circumstances that I have just mentioned and award a lenient verdict in the case of Masutani, Shinichi.

SHINODA, Ichiro
Lt. Comdr., IJN,
8 Sept., 1946

I certify the above to be a true and correct translation of the original petition of SHINODA, Ichiro in Japanese to the best of my ability.

Eugene E. Kerrick, Jr.
EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

PETITION

To Your Honor, the President of the Military Commission.

I humbly make my plea to your Honor the President and Members of the Commission. I am one who has associated with the accused in this Chichi Jima War Crimes Case, Masutani, Shinichi, former Lieutenant (jg), IJN for over one year, and am quite well acquainted with his character and his thoughts. As I was in his class at the University, and also with him after entering the Navy, I understand this viewpoint well, and therefore ask lenience in his case. The accused Masutani graduated from the law college of the Tokyo Imperial University in September 1943, and entered the navy immediately, and was commissioned as a naval reserve officer in July 1944, being simultaneously given order to report to the Chichi Jima Radio Unit.

There is almost no history prior to this war of reserve officers in the Japanese Navy, and in general, the status of these reserve officers was incredibly low, and they did not have much authority to speak up for themselves. Furthermore, the commanding officer of the Radio Unit at that time, Commander Yoshii, was exceptionally strict towards these younger officers, and there was absolutely no room for offering one's own opinion once he had given the command. I have personally heard that conditions were such at the radio corps from a good friend of mine.

The thing that was required above all else of officers who had been students was the strict observance of military discipline and special emphasis was placed on the absolute obedience to orders. Thus, it was a custom that if these reserve officers spoke up and expressed their own opinion they were told sharply that they lacked the "warrior's spirit" and their statements went unheeded.

At the time of these incidents, the popular feeling towards these enemy prisoners was not the best and the reason for this was:

1. The hostile spirit and weakening of nerves because of the continuous heavy bombings which wrought much damage to personnel and materiel, and also from the almost 24 hour-a-day labor with short rations.
2. The encouragement of the hostile spirit by journalistic means. By this I mean the arousing of the people's animosity by the reports of atrocities committed against the bodies or our dead by the enemy on Guadalcanal, and the massacre of our nationals on a south sea island.


As the popular feeling was such, and the orders of the commanding officers were stern, it was quite impossible for a young officer to oppose the orders. If he had not carried out the order, he, in the eyes of the commander and public opinion, would have been called a traitor, and it would have meant suicide for the officer.

After being acquainted with him for a year, I understood that he possessed mild and unradical ideas, was a shy, well wishing youth. I know well that he is not the person who would commit a mean act against any person, let alone murder anyone.

As I know his fine character and his ideas well and understand his position, I tearfully beg of your Honor that you will deal leniently with the accused Masutani.

NOMI, Hidehiko
Lt.(jg), IJN

I certify the above translation, consisting of two pages, to be a true and correct translation of the original petition of NOMI, Hidehiko in Japanese to the best of my ability.


EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

PETITION FOR CLEMENCY IN THE CASE OF MASUTANI, SHINICHI:

I humbly place the following petition before the honorable President and the Members of the Commission concerning former Lieutenant (junior grade) MASUTANI, Shinichi, who is among the accused in the Chichi Jima war crime case.

I was living with him when I was a member of the Correspondence Unit. He was mild and was trusted much by people. He was so kind to his soldiers that he did not mind to sacrifice himself for the sake of them. Besides, he was man of few words and amiable, so he was admired and relied upon by his men. It's hard to believe that a good man like he committed the crime. If it was true it was done not by his will but he was obliged to do by the severe order. He was an officer and had to discharge what he was ordered.

I beg that you will take your kind consideration on what I've just mentioned above and deal leniently with him.

SAKAMOTO, Kaoru
Chichi Jima Witness

I certify the above to be a true and correct translation of the original petition of SAKAMOTO, Kaoru, in Japanese to the best of my ability.

Eugene E. Kerrick, Jr.
EUGENE E. KERRICK, JR.,
Lieutenant, USNR,
Interpreter.

Petition for Clemency in Case of Masutani
Your Honor the President and Members of the Commission

Please allow me to submit to you a petition
pleading clemency in the case of Masutani
Shin-ichi. I was formerly one of Lt Masutani's
subordinates, and with two other men, lived
under ~~these~~ in the same small shack.

Lt. Masutani was an ^{reserve} ensign who had just
entered the Navy after graduating from
the Tokyo Imperial University. Therefore
with his short naval career, he had a
practically no voice in the ~~same~~ Radio
Station affairs, and was looked down
upon by the other officers. In such a
position, ^{even any slight} ~~everything~~ ^{mistake} that he did was
severely criticized, although anyone could
see that he was doing his best. In the 4
months that we lived together, he told me
about ~~so~~ many of his troubles, ~~though he did~~
and gave me ~~much~~ ^{useful} advice. He ^{used to} come home
late at night exhausted from his day's work
amidst such tense conditions, and ~~sp~~ ^{often} taking
sharing with me what small stores of liquor
he had, and talking ¹⁸¹ ⁽¹⁾ about his many 1105

difficulties, giving me much advice.
During this period I came to be ^{well} acquainted
with his character and ideas well, and
also realized how ~~difficult~~ hard he was
struggling to suppress ^{his ideas} himself and adapt himself
to the atmosphere of the radio station. If he had
~~He was looked upon as~~ He was the centre of
criticism already; if he had dared to express
his free ideas at that time, it would have
meant a social ~~suicide~~ ostracism.

In ~~at~~ this state of affair he was ^{just} ordered
to execute the prisoner, and this because
he was a reserve officer, and had to show
his mettle. H. Masutani ~~then~~ confided to
~~in me~~ his frank feelings ^{in me}, saying that
"I do not want to do this, but I have
no other alternative."

I was one of the many who ^{had to} ~~were ordered~~
to witness the execution. I saw how
H. Masutani, though he had his sword
drawn, could not ^{make} get himself to ~~the~~ strike
the prisoner ^{when it became his turn} after the first execution had
delivered the first initial blow, and faltered,

only to ~~be~~ have a sharp order thundered at
him by the commanding officer. Thus it
was that he delivered his blow.

~~I do not~~ I humbly beg that
Your Honor will take into your kind
consideration the fact that it was ~~ab-~~
absolutely ~~for~~ ^{against} his own will that Lieut
Masutani took part in the
execution. ~~I believe~~ Judging from Lt
Masutani's sterling character, I
believe that his ~~conscience~~ ^{has recently undergone}
unimaginable torment and agony
from this act, and it is too severe to
punish him again.

Former Petty Off. 1/c
Fumio Yamamura

父島方面関係裁判長閣下

被告元海軍中尉林實^{（實）}に対する難願書

私が此の書簡を閣下^{（閣下）}に送る事は又今閣下^{（閣下）}前に
裁判せられて居る元海軍中尉林實^{（實）}氏の部下
の一員でありまして、お彼の性格を好く熟知して
居る私の證言が幾分でも取入れられて閣下^{（閣下）}で
林實^{（實）}氏を寛大に處置せられれば幸甚の極
まで御座居ます。

林實^{（實）}氏は若き意気 ^{この予備士官に}
職責を重んじ、部下を受け、又非学を研究家
と有りし、政多き者に親しむ事を尊敬され
居りました。此の様な彼が何故に人道にそむく
様なことを致し、~~期~~した。

若し彼が罰を受ける如き行為を成したとしても
全く彼が心ならずも嚴正なる上官の命令に
下に従ひ得るがためです。若し生命
将来有望なる彼に対し寛大なる處置を
取らん事を予願ひ致します。

元父島海軍通信隊

有賀照正

九月八日

林 中尉 = 関スル人格証言書

私、此、度林中尉 = 関スル人格証言ヲ為ス、先采
 ヲ有シタ事ヲ非常ニ感謝致シテ居リマス
 昭和十九年十一月以降私、同ジ隊ニ勤務致シテ居タ者
 デアリマス彼、非常ニ職務忠實ヲ思ハヤリ、深夜
 人デアリマス先能に及ビ其ノ地色ミナ機密等、
 修理ヲ頼ミタ時等、朝早くヨリ深夜ニ至リ
 殆ド寝ル時同ガ無イト思ハシ程懇ニ修理ニ
 當リ一刻も早クナホシ相手ヲ満足サセルトカ又
 此ノ取扱校武故障、時等、自今、受荷、如ク
 非常ニ努力シテ下サントカ又自今配給品ヲ
 我ニ下セルト云フコトモシ、アリマス
 又常ニ微笑ヲ浮ベ自今、苦ラ人ニ配サセイト
 努力サレテ居タ人デアリマス故ニ私達ニ云フ迄
 モタク隊内総員ヨリ非常ニ尊敬サレテ居タ
 彼ガ再シタ行爲、嚴重ニ命令ニ依リヤラ
 得ズ再サレタ事、公判ニ於テ明察ニテ之ヲ裁
 事ト思ヒマス
 是ノ早彼、其時ノ活動量ノ上法寛大ニ処置ヲ
 施シ致シマス

大東海軍通信隊
 海軍一等兵 坂本 啓

歎願書

裁判長閣下、並 判事各位殿

元海軍技術中尉 林 寅實 君と私、父島にて

一年半に亘る交際を依り、同期同年齢

同じ技術者、一人デアルコトヲ知り、互に接近し

親しく友誼ヲ續けたるモ、デアリマス

林君は、實に明朗活達ニシテ自己、職責ニ

肉シテ、真面目、人々接スニ親切ニシテ人情

深ク、苟も人ヲ疑フ等、疑度、微塵モ

之ヲ見ルコトに出来セシテシタ

斯ク円満ナル人格ヲ有スルヲ以テ彼ト接スル人

ニシテ彼ヲ好ミサニ人々、上官、同僚、部下、及

他人タルヲ向ハス、総て之ノ者ニ愛セラルタリ、

現に、当地、戦争犯罪人収容所ニ於テモ好評

ニシテ悪ク言フ人ハナシデアリマス

一番兵曰ク「彼ハ紳士デアリ」ト

又或ル者曰ク「彼ハ私、善キ友達デアリ、彼ハ

親切デアリ僅リデナク、コノ氣がツキ、私、意志通

ニ行フヲ呉レルデ、私ハ彼、此へ行クト安心ス」

ト

此ニ我々ノミデナク、余々、他人デモ彼ノ明朗円満ナル

人格ヲ認メルコトヲ知ル

通信隊勤務中の擔任、電探ニ関しては、令
執に其、物ニして、自分、仕事ヲ愛スル様、見
エタル、成ニ技術者、鑑ト見ルコトが出来
又部下、下士官兵ヲ可愛がり、其、面倒ヲ
見ルコト、自分、弟、如クシ。吉井司令、後嚴
た命令モ、彼並増谷中尉、温キ心アルニ依テ
若キ隊員、救ハシタリ見得シ。

林君ハ農村ニ母唯一人、有ル、ニテ、常ニ母親
ノ事ヲ心配シ、存養ヲ盡シテ未タ。彼、母親
一人息子ヲ専門学校ニ送リ通ハセ、令將ニ息子、
結婚独立ニ依テ安んゼトシタリ矢先アリ
彼、判決ガ如何ナル結果ニ落ルカ、心痛
スルハ、私一人、知ラナク。

嘗、日本海軍ニ於テ、青年士官ハ、私モサウデハ、様ニ
上官、命令ヲ能ク迄ニ遵法シ、如何ニ実行スルカ
ニ苦心シタリアリマス。カレモ意見具申等ハ、
容易ナラサニ問題デ、彼方能ク迄司令、命令ヲ
拒絶スルハ、其、後ハ、困賊ト呼バレ、海軍ニ籍ヲ
置クコトが出来ナイコトナルハ、自明ノ事ナラシム
吉井司令、命令シタコト、内違フ事デモ必ズ終リ迄
実行サセシ。誤ハ、更ニ命令モ直ストイフ主義デアラウ
此、故ニ彼、行爲ニ將ニ同情スベキモ、要ラズト信ス。

合ハラス

裁判長殿

以上諸々、其ヲ御覽察アセリシ

何卒御實丈ナニ此點ヲ取リツキ

切ニ御願ニ次オテアラス

海軍中尉 長谷川武洋

林技術中尉に対する格證言

元海軍中尉渡邊一太郎

明朗ニシテ活潑ト明ル性格ナル青年ナリシ
極メ純情真面目ヲ電探技術ニ就テハ専門的ト
智識ヲ有シ常ニ上官ヨリ絶對信頼ヲ受メ
部下ヨリ非常ニ尊敬サレテ居タル
責任感愈々強ク自己ノ責任内ニ故障又ハ修理箇處
ノ出来ノ場合ニハ全ク其ノ傾ケテ其ノ原因ヲ確メ
其ノ手段ヲ講スルトシテ技術者特有ノ考課一面
快活ニテオバキト物ヲ仕来スル決斷力ヲ持ツテ居タル
大急場合ニ徹夜作業ヲ進メ行フトシテ自己職責
ノ觀念ハ強ク其ノ程真面目ナリ
節度良シ生活ノ好ミ働時ト遊時トハ別ニ区別シテオビ
若シ其ノ仲間ニ入リ其ノ氣持ト下士官仲間ニ入リ
其ノ氣分ヲ察シ其ニ適合シテ話スル等誰カモ
尊敬サレ愛サレ親シム人ナリ
司令ノ青空時技ノ教育ヲ非常ニ嚴格ニシ且等級
差ガ餘ニ大ニ乃常ニ命令ニ絶對服從アリ極メ
順ナリ
若シ私ガ林技術中尉ノ場合ニトシテハ大張
同心道ヲ歩ムベキナリカモアト思ヘリ

父島方面関係裁判長閣下

被告元海軍中尉 林 實 氏 に対する歎願書

一面識もなし私が敢て閣下に此の書を送る所以のものは正義人道の名の下に閣下の前にて裁判せうとする元海軍中尉 林 實 氏 の部下の一人であり、亦彼の人格を熟知してゐる小生、證言が閣下の厳正なる裁判に幾分なりとも取り上げられ、此れに依つて閣下が 林 實 氏 を寛大に裁判せうとしたならば幸甚の至りであります。

林 實 氏は若き予備士官として正直快活、純情で常に職責と重んじ、非常なる溫厚と偉大なる慈愛とを以て常に部下を愛した故、多くの士官の中で誰よりも兄の如く親しまれた。此の様な彼が命令なくして國際道徳に背く如き行為は露として行へる彼ではありませぬ。然るに此の度彼は戦争犯罪人として法廷に立たせらる事になりました。

此れを知った我々は實に驚き悲しみに堪へな
次第です。

若し彼が罰を受ける如き行爲を——たに——も
全く彼の意志でなく嚴正なる命令の下に
免れ得たかたです。

如何卒苦き、将来有望なる彼に対し、御寛
大なる處置を取られ人事を希ひ願ふ
次第であります。

九月八日

元父島海軍通信隊

推名乙平

元父島裁判長閣下

歎願書

此の度貴法廷に起訴されに海軍中尉林實に關しと不肖の
身有みず 裁判長閣下茲に關係諸官に御願ひ致し度
と思ひます

私は同中尉と父島海軍司令部に於て約半年の間親しく同居勤
務致しました。同中尉は性溫厚篤實頭腦明晰にして上司
令官の信任を得、同僚と相知し部下もは極め慕はれ居
ました。此の度の事件に關しは彼の日頃の人格に照らし未だに信ぜ
られぬものがあります。若し事實とすれば上司の命令に己む
なく犯したると思はれます。彼は自ら進んで斯かる事を為さる人
でないと深く信じて居ります。

終戦後米軍父島に進駐した際は自ら進んで米軍との連絡將
校となり米軍幹部と親しく交はり友情溢るものがありました。

彼は未だ若年にして今後日米親善の上にも又文化國家日本
建設の上にも極めて有望の青年であります。

右事情酌量の上何卒寛大なる裁決を賜ふことを伏して御願
ひ申上げらる次第であります。

昭和二十一年九月一日

海軍少佐

宮崎健次

父島關係戦犯裁判長閣下

謝願書

私ハ今公明正大ナル閣下ノ裁ヲ受ケテ居ル
被官元海軍中尉林實ト一諸ニ居ル者デ
アリマス

彼ハ部下ヲ非常ニ可愛ガリ特ニ健康方面ニ
細カイ迄迄氣ヲ配リ非常ニ丁寧デ且慈愛ニ
満タリ人デ常ニ勞苦ヲ部下ト共ニ又一方
非常ニ温順ナル人デ好フモノニト感ジノ非常
ニ良キ人デ部下一同ヨリ深ク尊敬サレテ居タ
彼が罪ヲ犯シタノデ是ノエハ軍隊ノ命令ト
云フモノガ犯サレタノデアリ私ハ強ク信ジテ
居リマス

何等閣下ノ限り無イ慈愛ニ依リ法寛大ナル
法裁可ヲ仰グ次第デアリマス

裁判長閣下

文会通厚通信隊

海軍一等兵 坂下 馨

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林 實 君 閣 下 裁 判 長 閣 下

元海軍技術中尉 林 實 君 共ニ 元父島海
軍特別振撫地隊ニ勤務して居りました。

彼、二十歳ヲ越エニ僅カニ數年、彼ノナストコ少
シ、世ズレモナク、金一本、正直、快活、純情、ソ、モ、
デアリマシタ。ア、元人カラ愛せられ、誠ニ若キ士官、
花形、感ラ抱カれたモ、デアリマシタ。

然レニ、此ノ度、戦争犯罪人 容疑者トシテ、彼、
法廷ニ立ツニトナリマシタ。彼ヲ知ル者一同、意外、感
ニオッタ、デアリマス。何故ニ、彼が被告トシテ、法廷ニ
立タネバナラナイ、デアリマシタ。

若シ、彼ニテ、戦争法規ニ違反スヨウナ行爲が
アツタニマスナラ、察スニ、上官、至嚴タル命ヲ受ケ、
ソレニ對シ、絶対服從ヲ要求スル軍隊タルが故ニ
彼自ラ、変テニ反シ、行フタモ、デアリマセウ。

何卒、將來有望タル彼ニ對シ、

裁 判 長 閣 下、

御寛大ニ處置ヲ取リ下サレヨウ、切ニオ願
ヒ申ニ上ゲマス。

元海軍

飯島眞之

林 實：對人 格證言書

謹、裁判長閣下並、判士諸官、對、被告林 實、
、性格、就、申、上、げ、ま、す。私、約半年間、彼、ト日常、
勤務並、起居、ヲ共ニ觀、タ、ノ人物、接、シ、タ者デ、ア、リ、マ、ス。が、
彼、極、メ、純真、明、朗、な模範的、好青年デ、ア、リ、ト、印象、
、深、ク、抱、キ、居、リ、マ、ス。
彼、赴、ケ、度、ニ、常、ニ、恰、モ、春、風、吹、キ、盡、ク、森、々、雲、圍、氣、ハ、
、醸、シ、出、テ、接、ス、ル、人、ヲ、自、ラ、親、愛、情、ヲ、感、ゼ、シ、ム、ト、云、フ、風、
ガ、ア、ツ、タ、デ、ア、リ、マ、ス。終、戰、後、彼、進、ゲ、父、島、進、駐、貴、軍、ト、連、
絡、係、ト、ナ、リ、私、ヲ、援、助、シ、タ、デ、ア、リ、マ、ス。が、
貴、軍、將、兵、カ、ラ、ハ、[「]ビ、ン、ダ、ー[」]、愛、稱、ヲ、以、テ、愛、セ、タ、リ、貴、軍、
指、令、遂、行、ニ、極、メ、同、滑、ニ、進、步、シ、タ、モ、ト、確、信、ス、ル、モ、デ、ア、リ、マ、ス。が、
言葉、ニ、充、分、通、ジ、ラ、ズ、洋、東、西、ノ、間、ハ、一、個、人、ニ、付、キ、ハ、
人、自、ラ、備、フ、風、格、ハ、容、易、ニ、感、得、サ、レ、モ、デ、ア、リ、ト、感、ヲ、深、ク、
シ、タ、デ、ア、リ、マ、シ、タ、リ、之、モ、亦、彼、ガ、如、何、ニ、善、良、な、人、物、デ、ア、リ、ト、云、フ、
事、好、例、證、デ、ス、ト、信、ズ、ル、デ、ア、リ、マ、ス。
彼、亦、頭、腦、明、敏、勤、務、ニ、献、身、的、ニ、精、勵、シ、テ、實、績、
極、メ、顯、著、デ、ア、リ、マ、シ、タ、リ、能、力、ヲ、見、タ、モ、前、途、有、為、
人、材、デ、ス、事、ヲ、疑、ハ、イ、イ、ノ、デ、ア、リ、マ、ス。

私、是、如、善、良、ニ、テ、有、能、ナル、青、年、林、ガ、被、害、席
ニ、在、ル、事、ヲ、痛、歎、ス、ル、者、デ、アリ、モ、
誤、ル、戦、争、。誤、ル、指、導、者、。誤、ル、環、境、。舊、時、代、日、本
ノ、生、テ、痛、ミ、テ、犧、牲、デ、アリ、セ、ウ、ガ、犧、牲、デ、ア、ツ、ク、バ、ナ、ラ、ナ、イ、ト
信、ズ、ル、デ、ア、リ、タ、ス、之、等、ノ、非、ヲ、身、ヲ、以、テ、体、験、シ、タ、ル、善、良、有、能
ノ、人、材、ヲ、具、シ、新、生、日、本、ノ、原、動、力、ト、成、リ、得、ル、ト、思、フ、カ、ラ、デ
イ、ル、モ、
裁、判、長、閣、下、並、ニ、判、士、諸、官、。何、卒、此、ノ、善、良、ニ、
前、途、有、為、ナル、青、年、林、ノ、前、途、ニ、更、ニ、一、層、ノ、光、明、ヲ、
與、ヘ、タ、ル、事、ヲ、衷、心、希、フ、所、第、デ、アリ、モ、

(終)

海軍少佐

篠田 一郎

歎願書

謹ニマリアナ方面戦争犯罪裁判長並ニ判士諸官ニ
 才願ニ申上げマス
 私ハ今回ノ交易関係戦犯裁判被告林実技師
 中尉トハ交易方面特別根據地隊司令部附トシテ
 一九四五年七月以降寝食ヲ苦ニスル事約半年其ノ
 間彼ノ人格思想ヲ充分理解致シテ居リマス故ニ彼
 ハノ寛大ナル判決ヲ切望致ス又ハデアリマス
 彼ハ一九四三年少尉高エヲ九十歳ニ同時ニ海軍上
 等工務課ノ技師兼リナリ一九四四年九月交易方面特
 別根據地隊司令部附トシテ直後交易通信隊司令
 令承命職務ヲ命じマシタ

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當時父島ニ於ケル將士ノ米軍捕虜ニ對スル感情ハ決
シテ良クアリマス。ソレハ日本ノ新南カネ國軍
ノ加力ナル及南洋海島中ノ一島也。日本捕虜
虐殺及死体毀壞事件ヲ報道シ國民ノ敵愾心ヲ
アホフタカラテアリマス。日本人ハ本來武士道ニ依リ武
器ヲテ戰斗力カナイモノニ對シテハ喜ヲカケル習慣ヲ尊
ビテ來シタカ。今圓ノ戰爭ニ於テハ之ヲ排シテ專テ敵ヲ
憎惡スル様ナ宜任カ多ク。國民ノ大部ハ之ニ動サレタ
タカ。ハルマハ之ヲ武ニ逆シ陸軍部ニテ歡レテ居リタレタ
又當時ノ通信隊司令ハ吉井中佐アリ。彼ハ此青年
電探技術者ヲ遇スルニ嚴格ヲ以テシタ。而シテ電探
技術上ノ進言ニ就クモ拒絶サレタ。彼ハ私ニ接シタ事カ
アリマス。

和、彼が常に明朗ニシテ人ヲ愛シ又愛サレ逸順ニシ
 ラ日本ノ古イ慈悲ヲ説ク佛教ヲ信奉ス家庭ノ
 一人息ヲトシテ生レ月ヲシテ事ヲ憶ヒ彼ノ歸リ
 ヲ待ツ母親ヲ憶ヒ彼が今國ノ不幸ナ事件ニ連
 座ス様ヲシテ事ヲ残念ニ思ハナリテハ居レマセン
 裁判長閣下並ニ判士諸君
 河本林 安具 中尉ヲシテ寛大ニ判決ヲ与ケシメ
 ラン事ヲ祈ル次ヲカキマス

海軍中尉 能美英彦
 (父島南島)

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CLEMENCY PETITION FOR HAYASHI MINORU

I have taken the liberty to submit this petition to you as I am one of the former subordinates of former Lieutenant (jg) Hayashi Minoru, who is being tried before you. I will be most grateful if you will consider my statement as one written by a person who knows the accused's character well.

Lieutenant Hayashi was a young and cheerful reserve officer, and felt great responsibility for his work. He loved his subordinates and was very capable in doing research. Thus he was loved and respected by many persons. How could such a person commit an inhumane act?

If he has done an act for which punishment is justifiable, it certainly must have been that this was not done of his own will but under strict orders from which he could not escape.

I beg that Your Excellency will be lenient in dealing with this young person, from whom much can be expected ~~of~~ in the future. W

ARUGA TERUSADA
Former member, Chichi Jima
Naval Radio Corps.

I certify the above to be a true and correct translation of the original petition of Aruga Terusada, in Japanese to the best of my ability.

Frederick F. Tremayne
FREDERICK F. TREMAYNE
Lieutenant (jg), USNR.
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF FORMER LIEUTENANT (jg) HAYASHI.

I am very thankful for having the honor to place before you my humble affidavit for the character of Lieutenant (jg) Hayashi.

I served with him in the same unit since November 1944. I think he was a very kind person. When he was entrusted to repair dynamos, transformers, etc., he worked so hard to live up to the trust placed on him that he even had not time to rest from early in the morning till late in the evening. He was willing to exert himself in repairing our machines. He often shared with us what he received. He was always amiable and was trying to conceal his pains so as not to cause his comrades and subordinates anxiety. Therefore, he was admired not only by us but also by everybody in our unit. I am sure it will become evident in the court that he was forcibly made to commit the crime.

I beg your kind consideration of what I have just mentioned and that you deal leniently with him.

SAKAMOTO KAORU
1st Class Petty Officer
Chichi Jima Wireless
Station, IJN.

I certify the above to be a true and correct translation of the original affidavit of Sakamoto Kaoru, in Japanese to the best of my ability.

Frederick F. Tremayne
FREDERICK F. TREMAYNE
Lieutenant (jg), USNR.
Interpreter.

To Your Excellency the President and the Members of the Military Commission.
CLEMENCY PETITION IN THE CASE OF HAYASHI MINORU.

Former Navy Lieutenant (jg) Hayashi Minoru and I were closely associated for one year, and learning that we were both of the same class, same age and likewise technicians, came to know each other intimately.

Lieutenant Hayashi is a cheerful, bright person and earnestly carried out his duties. He was kind and sympathetic in his associations and was not in the least any suspicious of others.

As he possessed such an amiable personality, those who came to know him all liked him whether they were his superiors, colleagues, or subordinates. He was loved by all. Even at present, he has the best reputation at the War Crimes Stockade on this island where he is being confined, and there is no one there that will speak evil about him.

One guard told me that "He is a gentleman" I have heard another person say of him: "He is my good friend. He is not only kind but is considerate, and does not act against my will. When I am with him I feel secure."

Not only ourselves, but those who are not so intimately acquainted with him recognize his bright and cheerful personality.

When he was serving at the radio station, he was very conscientious in carrying out his duties as a radar technician, and loved his work. Hayashi set an example for all technicians to follow.

He was also considerate of his subordinates and took care of them as if they were his younger brothers. It can be said that the younger men of the radio station were saved from suffering the full impact of commanding officer Yoshii's severe orders because of the warm heart of Hayashi and Lieutenant (jg) Masutani.

Hayashi's only living parent is his mother, and he has always been anxious about her safety and served her with admirable filial piety. His mother sent her son to college, and just about the time when she thought she could set her mind at rest by seeing her beloved son marry and become independent, he met this fate. Consequently I am worrying about the outcome of this trial.

Young Japanese naval officers, I myself was one, took pains to faithfully carry out orders of superiors to the letter and offering one's objections to the order was unusual and a very serious matter. If he had not executed the commanding officer's orders, he would have been called a traitor to his country, and it is apparent that he would not have been able to stay in the navy. Commanding officer Yoshii was the sort of person who would give orders and have them executed properly even if they were wrong.

Thus, I believe that there are many points which should be taken into your consideration. Your Excellency, the President of the Commission, I beg that you will be lenient in your decision.

Hasegawa Taketoshi
Lieutenant (jg) IJN

I certify the preceeding page to be a true and correct translation
of the original petition of Hasegawa Taketoshi, in Japanese to the best of
my ability.

Eugene E. Kerrick, Jr.

EUGENE E. KERRICK, Jr.
Lieutenant, USNR.
Interpreter.

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AFFIDAVIT FOR THE CHARACTER OF LIEUTENANT (jg) HAYASHI:

He was a bright, amiable and clear man. He was pure-minded and honest, and had a good knowledge about radar. Therefore, he was much relied on by his superiors and much admired by his subordinates.

He has a strong sense of responsibility. If the radar, the maintenance of which he was responsible for, got out of order or became necessary to repair, he did his best to find the trouble and repair it. As an engineer he was such a thoughtful person, and besides, that he was a man of decision. If necessary, he was willing to work all night long. He discharged his duties honestly and earnestly as I stated above. 52


He loved a regular life. He discriminated between the working hour and the recreation hour. He knew how junior soldiers thought or how non-coms thought, and spoke to them in a friendly fashion as if he had been a junior soldier or a non-com, so that he was loved and admired by them.

His commanding officer was very strict about the education of junior officers. The difference in rank between them was so great that his orders were absolute and they had to be obeyed.

If I had been lieutenant (jg) Hayashi, I would have had to do as he did.

Watanabe Takejiro
Lieutenant (jg), IJN

I certify the above to be a true and correct translation of the original affidavit of Watanabe Takejiro, in Japanese to the best of my ability.


EUGENE E. KERRICK, Jr.
Lieutenant, USNR.
Interpreter.

PETITION FOR CLEMENCY

To Your Excellency, the President of the Military Commission:

Your Excellency, please allow me to submit a petition for clemency in the case of Hayashi Minoru, Lieutenant (jg), IJN.

The reason that I have dared to submit this petition to you is because I was one of Lieutenant Hayashi's former subordinates, and believe that Your Excellency would take into gracious consideration my statement as it is from a person who thoroughly knows the character of the accused, and be lenient in your decision of his case.


Hayashi Minoru was a young reserve officer, and was honest, cheerful and naive, with a strong sense of responsibility. He always loved his subordinates tenderly, and was highly esteemed and respected by many officers. As fine a character as he is, it cannot be that he could have committed an act violating international law without being ordered to do so. But still, he has been arraigned to appear before your court as a war criminal. We who heard about this cannot suppress our surprise and sorrow.

If he has actually committed a crime for which punishment is justifiable it must have been because he was forced to do so by very strict orders.

I beg that you will be merciful in dealing with this young officer, with such a bright future in store for him.

Shiina Shohei,
Former Member, Chichi Jima
Naval Radio Station.

I certify the above to be a true and correct translation of the original petition of Shiina Shohei, in Japanese to the best of my ability.


EUGENE E. KERRICK, Jr.
Lieutenant, USNR.
Interpreter.

PETITION FOR CLEMENCY

To Your Honor, the President of the Military Commission:

In spite of my humble position, I hereby submit my plea for clemency in the case of Lieutenant (jg) Hayashi Minoru, who is now being tried before Your Excellency.

I served and was closely associated with the accused Hayashi for a period of six months at the naval headquarters on Chichi Jima. Hayashi is of a warm and gentle nature, and of unusual mental capability. He was trusted by his superiors, mixed harmoniously with his colleagues and was respected and loved by his subordinates. I still cannot believe that he could have been involved in this incident when I think of his fine character. If it is true, he must have committed the offense because he had not other alternative, once confronted with his superior officer's orders. He is not the kind of a person who would have committed such an act of his own free will.

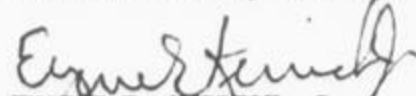
When the American Occupation Forces landed on Chichi Jima after the war was terminated, he volunteered to become a liaison officer, and became quite friendly with the American officers.

He is still a young man; and has a brilliant future before him, in which I am sure he will contribute much to the establishing of good will between our two nations, Japan and America, and also in the reconstruction of Japan.

I humbly beg that you will take the above extenuating circumstances into your kind consideration and deal leniently with him.

Miyazaki Kenji
Lieutenant Commander, IJN.

I certify the above to be a true and correct translation of the original petition of Miyazaki Kenji, in Japanese to the best of my ability.


EUGENE E. KERRICK, Jr.
Lieutenant, USNR
Interpreter.

Petition for Clemency in the Case of Hayashi Minoru.

To Your Honor, the President of the Military Commission:

In spite of my position, I take the liberty of offering my petition to your Honor, on behalf of former Navy Lieutenant Hayashi Minoru, who is now under trial.

Lieutenant Hayashi was an earnest and conscientious young officer. He was always anxious about our physical condition, and taught us personally the fine points of physical exercise. He was extremely popular among the men. A person who was loved by all, as Lieutenant Hayashi was, could not have committed such a grave offense, was it not for the fact that orders from one's superior are absolute in the Japanese Forces. I am sure from the bottom of my heart that Lieutenant Hayashi is not a person who would commit such an act if it were not for the orders he received. I believe that the new democratic Japan is calling for excellent young men like him.

I beg that Your Honor will take the above into consideration and be lenient in your verdict.

Suzuki Kazunori
Petty Officer, 2nd class

I certify the above to be a true and correct translation of the original petition of Suzuki Kazunori, in Japanese to the best of my ability.


EUGENE E. KERRICK, Jr.
Lieutenant, USNR
Interpreter.

PETITION FOR CLEMENCY IN THE CASE OF HAYASHI, MINORU:

To Your Honor, the President of the Military Commission:

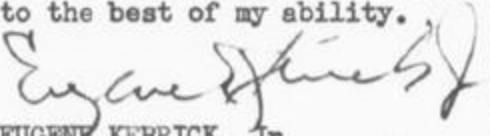
I lived with former Lieutenant (jg) Hayashi, Minoru, who is among the accused in the Chichi Jima war crime case.

He was very kind to his men and he looked after their health very considerately. He was very polite and benevolent, and always suffered any pains or hardships along with his soldiers. Besides, he was very mild and amiable and profoundly admired by his men. I believe it was not he who committed the crime, but that the strict militaristic order of our Navy obliged him to do so.

I beg that you will take into kind consideration what I have just mentioned above and deal leniently with him.

Sakamoto, Kaoru
Chichi Jima Witness

I certify the above to be a true and correct translation of the original petition of Sakamoto, Kaoru, in Japanese to the best of my ability.


EUGENE KERRICK, Jr.
Lieutenant, USNR
Interpreter.

PETITION FOR CLEMENCY IN THE CASE OF HAYASHI MINORU

To Your Excellency the Honorable President of the Military Commission:

Your Honor, The President of the Commission:

I am one who served with the former Lieutenant (jg) Technician, Hayashi Minoru at the Chichi Jima Naval Base.

His age is of only a score and several years, and he is not in the least sophisticated. He was innocence and honesty itself. Loved by all, he shone among the younger officers.

Quite unexpectedly, he is now standing trial before you. Those who know him are all shocked to hear of this. Why does he have to stand before a court as an accused?

If he had ever acted in violation of the laws of war, we guess it must have been that he received a strict order from his superior to do so. Because the armed forces required the strictest observation of orders, he must have acted quite contrary to his own will.

I beg that Your Honor the President of the Commission will be lenient in dealing with this young man, of whom much is expected in the future.

Iijima Mayuki
Former Lieutenant (jg)

I certify the above to be a true and correct translation of the original petition of Iijima Mayuki, in Japanese to the best of my ability.

Frederick F. Tremayne
FREDERICK F. TREMAYNE
Lieutenant (jg), USNR.
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF HAYASHI MINORU.

I humbly place this affidavit before Your Honor, the President and the Members of the Commission concerning the character of the accused Hayashi Minoru.

I was associated with him for about half a year, and I am under the impression that he was a pure-minded and bright person.

He was always so amiable that those who came into contact with him had some feeling of friendship and love toward him.

After the termination of the war he assisted me as a liaison officer between your forces and ours. He was named 'Piggy' among you and was so loved by you that we were well informed concerning your directives and orders. Then I felt that though he was a stranger to your language, his noble and gentle character served well in place of his tongue. This is, I think one of the good examples of his good character.

Besides, he was clever and earnest in his duty, and his services were very distinguished. Therefore, he is undoubtedly a promising person.

I feel very regretful that HAYASHI, such a promising person, has been accused in this case.

One may say that he is a pitiful victim of false war, false leaders and false environment of old Japan. But I believe that he must not be the victim. An honest, able person who has experienced these falsities is sure to be an indispensable person in the reconstruction of the New Japan.

Your Honor The President and the Members of the Commission, I beg that you deal leniently with this promising person.

SHINODA Ichiro,
Lieutenant Commander,

I certify the above to be a true and correct translation of the original petition of Shinoda, Ichiro in Japanese to the best of my ability.

Frederick F. Tremayne
Frederick F. Tremayne
Lieutenant (jg) USNR
Interpreter

PETITION

To Your Honor, The President and Members of the Marianas Area Military Commission:

I humbly lay my petition before Your Honor.

I lived and ate with Lieutenant (jg) Technician, Hayashi Minoru, one of the accused, for six months since July 1945, both of us being attached to the Chichi Jima Naval Base Headquarters. Thus I acquired a thorough understanding of his ideas and character, and feel that I must ask Your Honor for leniency in dealing with him. Hayashi graduated from the Yam-anashi Technical College in 1943 and entering the Navy immediately, became a radar technician and was assigned to the Chichi Jima Naval Base Headquarters in September 1944. Soon after that he was given orders to serve under the commanding officer of the Chichi Jima Radio Corps.

At that time, on Chichi Jima there was much animosity towards American prisoners. This was because the Japanese newspapers had reported atrocities being committed against the Japanese at Guadalcanal and on one of the South Sea islands, and also the desecration of their bodies which filled the Japanese people with a hostile spirit. The Japanese have traditionally acted with the Japanese Warrior's code, Bushido, as a basis and had a custom of taking good care of those who had been ~~made~~ imprisoned and were defenseless. But in this war, the propaganda tended to make the people abandon such customs, and to hate the enemy bitterly with all their hearts. Most of the people were affected by such propaganda, but those who remained steadfast in their beliefs deplored the fall of the Bushido. The commanding officer of the radio station at that time was Commander Yoshii, who was very strict and stern in treating this young radar technician. Hayashi told me that the opinions which he offered to the commanding officer relating to technical matters concerning radar were promptly rejected.

Thinking of the fact that he was always so cheerful, loving his fellow-men, and in return being loved, his obedient traits, and of the act as the sole son that he grew up in a family which believed in the old Japanese religion of mercy, and Buddhism, and further thinking of his mother who is awaiting his return, I cannot help but express my sympathy for him as he became involved in this incident.

Your Honor, The President and the Members of the Commission, I beg that you will give the accused a lenient verdict.

Nomi Hidehiko
Lieutenant (jg), IJN

I certify the above to be a true and correct translation of the original petition of Nomi Hidehiko in Japanese to the best of my ability.

Frederick F. Tremayne
Frederick F. Tremayne
Lieutenant (jg), USNR
Interpreter.

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Clemency Petition for Hayashi Minoru
To: Honorable Members of the Commission
From: Major Y. Idorie, Witness of Chichi Jima

September 9, 1946

I am very honored to submit to you my petition for Lieut. J. G. Hayashi Minoru, Imperial Japanese Navy.

I know him well. Because after the Japanese surrender he became a member of the Japanese liaison party under me for the American occupation force at Chichi Jima and worked hard day and night for a period of three months.

He was 22 years old and his character was very gentle, quiet and was faithful to his senior officers.

Later I heard that he killed an American aviator, and I was very

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much shocked and disappointed.

But I heard that he did it under severe orders of Commander S. Yoshii, Commanding Officer of the 'Yoake' Naval Radio Station.

I believe he was too young to refuse the severe orders, especially, as his experience in the Navy had been only 2 years, he had no other alternative, but as a human being, he is repenting for his sin committed as unwillingly.

I hope from the bottom of my heart that you will understand his youthful age, his character, his lack of experience in the Navy, and his devoted service for the

American occupation force after our
surrender, and give him a
merciful judgment.

If, by your lenient verdict,
he becomes a free man again,
I am confident that he will devote
his entire soul to the progress of
civilized society and the welfare
of his fellow men.

數額書

今日本國延起於... 陸軍部長村重信閣
 謹言... 裁減軍費... 陸軍部長村重信閣
 日本國延起於... 陸軍部長村重信閣
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 日本國延起於... 陸軍部長村重信閣

昭和三年九月一日

陸軍部長村重信閣

陸軍部長村重信閣

陸軍部長村重信閣

歎 願 書

裁判長閣下

私は被告の中村恒長とは昭和十五年九月父島に上陸以来三年間同じ中隊内に勤務し昭和十九年六月中村君は中三〇大隊本部附となりました。

中村君が現在貴法廷に被告として軍事裁判を受けらるゝのはと異に同情に耐えられぬであります。

私と同じ中隊内に居た時の中村君は快活にして誠実勤勉であり、同情心に富んで戦友の困窮するのを見れば自ら進んで助けるといふ美徳の持ち主であり、中三〇大隊本部附となつてからも少しも変らなかつたのであります。

あの同情心に富んだ中村君が被告となつて動機は決つて彼の意思によるものでなく、上官の至意なる命令によつてやむなくやつた行なと信するものであります。

裁判長閣下

願はくは中村君が何卒寛大なる御処置と
惻然致す次第であります。

父島関係裁判 父島證人 栗本 力
裁判長閣下

歎願書

父島戦争犯罪被害者 元陸軍中尉 中村重信
右は私が同部隊に編入せられたより本部連絡係
下士官たるを知りし中村君が毎日数里もつる可
令部迄数番風雨 かなる日も歩道に通る
居る面影を思出す度毎に何如に ~~苦~~ 責
任 観念及び服従に富みたるかを察し
中村君が此度父島関係米軍の事裁判に
附与るを知り何如に ^成 爲は之を中村君に止むに
止れず成したるを推察致す。願ふに裁判長
以下諸関係者御厚情にまがり一日も早く
中村君が苦悩の日々来たるを祈り難願致す。

昭和二十年九月十日

慰問者 父島陸軍元陸軍中尉 中村福松

父島

父島戦争犯罪裁判長閣下

敬願書

被生元陸軍佐長 中村 重 信

右者、昭和九年七月獨立歩兵第三百大隊本部要員
トシ、轉属サレテ以來二十二年十二月迄、私、宿舎ヲ共ニシテ
参リ、中村佐長、平素、体力極メ、強健矣
執下、他、構築ニ或ハ多ク、ヨリスル、量、物、違、敬、等
ニ、平、先、甚、苦、難、ヲ、引、受、ル、美、美、ア、リ、タ、リ、ハ、月、佐、長
ニ、役、官、ニ、シ、テ、部、隊、を、終、結、(師、団、命、令、を、受、領、者)トシ、服、務
ス、ル、ヤ、寒、暑、凡、雨、ハ、勿、論、身、ニ、危、険、ヲ、感、ス、ル、程、砲
射、撃、或、ハ、爆、撃、最、中、ト、雖、モ、責、任、觀、念、を、燃、盛、タ、ル、中、村、佐
長、ハ、默、シ、ト、實、行、シ、何、時、ニ、於、テ、モ、任、務、ハ、完、全、遂、行、ス、
又、上、官、ノ、命、ハ、常、ニ、從、順、シ、甚、ニ、信、賴、モ、厚、ク、我、ノ、同、僚、間、ニ
於、テ、モ、事、ニ、信、用、サ、レ、居、リ、タ、リ、カ、ル、中、村、佐、長、が、今、次、犯
シ、タ、行、存、ハ、中、村、自、身、ヲ、ス、ル、意、志、全、ク、テ、又、動、ス、ベ
キ、ザ、ル、命、ニ、ヨ、リ、シ、ハ、得、テ、犯、シ、タ、モ、ト、堅、ク、信、じ、マ、ス
何、卒、裁、判、長、閣、下、並、ニ、同、僚、諸、官、ノ、情、實、に、シ、ル、情
裁、量、ヲ、敬、ニ、才、願、ヒ、申、上、ゲ、マ、ス。

昭和三年九月十日

元、大、同、陸、軍

元陸軍曹長 和田 清 昭

米國戰犯裁判長閣下

歎 願 書

今度皇法廷に起訴され、陸軍佐長中村重信に
對し不省の身をも省み、裁判長閣下並に關係諸官に
市願申上あり。

私は中村佐長と同じ大隊内に勤務して居た關係
上、よく彼と接する機会を持ち、彼にこのよく知
つております。

中村君は愼純誠、安負責任觀念旺盛にして、而も
同情心に富み、私が大隊本部に命令受領に行
つた際など、私を爲に何か便宜を図つてくれたり
して、私は彼に會ふやを喜んでゐた者であります。

ある義侠心に富んだ中村君が、起訴された動機
は決して彼の意思ではなく、上官の互に敵たる命令
による、やうなやうな行為と、私は信じて疑ひません。
中村君の爲に何卒寛大なる判決を賜はうと
を伏して懇願致す次第であります。

昭和二十一年九月八日

父島證人 高橋澤吉

父島關係裁判裁判長閣下

歎願書

此度貴法廷に起訴されたる陸軍伍長中村重信に因
して不省の身を省みず裁判長閣下に御願申
上げます。

私は昭和十八年四月より昭和二十年十二月末まで被告中村
伍長と一緒に生活をして参りました。

中村伍長は快活な純情な性質でした。其の爲者等同
僚からは好かれ上官からは愛されました。

三。八部隊本部に居る彼は實に良く働き部下。
面儼を良くみせて居りました。病氣上りの彼が一本の杖を
ついて命令受領に遠い師団まで毎日歩いて行く姿が目
に見える様です。三。八大隊本部に於ては的場少佐着任

以来一度上官の命令を受けなければ水火の中にも飛び込む様。若し命令に反したならば死刑に處すると申し渡す。小且つ常に其の様に教育されたる者等でした。

あの純情な中村伍長が何んて人を斬りませう。只この上官の命令に依って行ったので。即ち中村伍長は的場少佐の手となりて行ったに過ぎないのであります。

彼が特に嚴格な的場少佐の直接部下であつた事が然らしめるのであります。政何卒此矣御雅察の上寛大なる裁決を賜はらん事を伏して御願申上げます。

父島証人 杉山 章一

昭和三十一年九月八日

父島戦犯裁判長閣下

歎願書

陸軍

此度貴法廷に起訴されたる陸軍伍長中村重信に對して不省の身を省みず裁判長閣下並に關係諸官に御願申し上げます。

私は中村伍長と約五年間一緒に生活して参りました。中村伍長は實に親切な責任觀念の強い持主です。且て兄島で二年間許り暮して居りました時漏電の馬炊事場より出火しました。其の日は彼は衛兵司令として勤務して居りました。其の日は彼を見守るや氷をかぶり火の中へ飛び込み病氣で寝て居た戦友を助け出しました。そして火傷の馬彼自身は重傷を負ひ其場は倒れてしまひました。彼中村伍長は護祐に迄助けた戦友の安否を言つて居りました。

此の様に彼中村伍長は人の爲には身命も惜しまない
様な人です。

此の如き中村伍長が何んで人を斬る事が出来たせう。
其小は至嚴なる上官の命令に依つて行つた事を信じ
て止みません。

何卒右の様な次第であります。政御推察の上然るべく
寛大なる裁決を賜はらん事を伏して御願申上げます。

父島証人 沖山 勤

昭和三十一年九月一日

父島戦犯裁判長 関下

私は中村位長の性格に付き知れる新事業に共感

中村江長は昭和十六年九月秋に一緒に父兄
に召集になり、一か所同中隊に居る、一作業等
一緒にして居る。

中村社長は常に達磨實評力の尊重や命令其他
に於いても必ずしもこれを實評する
体力等が新等以上あり、負けず、だ、下作業其
他も他人以上だて居るものと

又体力の弱き者加甚一み居ればこれと氣揚良く
助け、又命令なくも良と見れば進人の事にあたり
部下に對し一も誠に心解にん、意を所究見せば
速にこれと良と見るまで、まゝめる所、私達の
見在所におきまゝは誠に意を良なる人物と
信ずるのやあるや

[illegible]

以上：

漢江歌

下関市長裁判所

歎願書

此度貴法廷に起訴せられた陸軍伍長中村重臣に關し、一省の身と省の裁判長閣下並に關係諸官に御願申し上げます。

私は中村伍長と約三年間一儲に暮して参り、左中村伍長は非常に快活な親切な性質です。其の馬部下の者等からは尊敬され、同僚並に上官からは愛される人でした。

かつて父島で減食の馬部下の一人が、栄養失調で倒れ、彼は忙しい勤務、餘暇に冬の二はる様子を海水に入つて魚を獲り、其水と病人に毎日食べさせ、終夜看護した事も幾夜もありました。終に一月後には

快方には向はしめな事があります。

此の如き彼は實に思ひやりの深い親切な人です。

彼は決して命令なくては人を斬る様な人でない。事は神に誓って申し上げる事が出来ます。

何れも右事情酌量の上寛大なる裁決を賜はん事を伏して御願申し上げます。

父島記入 小西正之助

昭和二十年九月八日

父島関係戦犯裁判長閣下

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南郷敬之裁判長閣下

私、閣下、成厚情に服し、近き裁きを受ける
裡、告申村伍長に對し一光の恩恵存せしむ
裁き當り下候し、父に頼上申すべし仕
代に依りて

私、中村伍長を知り、父身三と云ふ
同一中隊及本部に奉職中なり。

中村伍長の日常能くし、中隊内、其
上の實質、恩恵に同輩にモトより後輩、
私等より兄トモに、高級工官の信用
され、誠、宗棟され、正直、五月事神一エト
立派の精神、人トシテアリタ。

私、信頼に居る伍長又能くし、
名、大恩恵の精神、中村伍長より
一旦軍、命令あり、如何なる事、まじ
知、是、命令、重責に実行し、上候し、又

私、然、中村伍長、心中、劉軍ヲ犯シ
ル者、テ、惟ハ嚴正ニ命令、劉軍ヲ
ラシタル程、テ、ト思ヒマス
閣下、道明公明ニ大ニ此裁ヲ下被
祀、中村伍長ニ此光明ヲ多ニ下被
トラ
閣下、此高、形ヲ形、申ス、任代ニ存、マス

父島、認、人

其、井、政、雄

父島、美、你、我、此、裁、劉、長、閣、下

謝願書

元陸軍少佐 中村重信

謝願人

元馬場藩 林 敏雄

元陸軍少佐中村重信氏は独立歩兵第三〇大隊本部連絡
 として昭和九年十月以来暗号班長として勤務に服し
 居り、之は常日頃上官同僚に信頼され部下に慕われ居
 る。上官命令には常に従順で責任規程を厳格に守り、同僚
 とも信用を得、班長として、通達行も殆ど不誤に処し、状況
 等を熟知し連絡の任に當り、又部下にも思ひやりよく親し
 む。部下に接するに際し、私に中村氏の名を、部下は常に敬
 人格に接する人である。食糧不足、宿舎の乏しさを中村氏は多
 量に勤勞し、自ら利用し、遂に眞實な生活を送り、其の
 又、大敵の部は水便、是、三月、山頂にあつた水、洗濯、浴、思
 ふ程に何から何まで、思ひ、中村氏は、絶えず、氣を配
 無量、我々の部下を文、下、洗濯、浴、人、以上、言
 る、我々の尊敬、中村氏は、罪、同じ、未、に、無
 あらうかと、疑、居、不、私、心、若、事、其、彼、罪、犯、と、言
 ば、元、陸軍、少佐、の、爲、上、に、得、ず、に、下、等、に、事、を、言、い、す。
 願、は、裁、判、長、閣、下、始、め、裁、判、官、諸、官、 特、に、写、真、文、に、お、き、處、置、を
 願、申、上、す。

昭和三年九月九日
 本國 元陸軍少佐 中村重信 閣下

新 願 書

謹ニ武蔵判長以下並判士諸官ニ付
又同判長等年紀相被告陸軍佐長平時重信
二國之判願申之云々
自分被告平時佐長ヲ知レ得タル生カ又
要害司合即勤務中ニ何時遇知ル性終
知レテリ之知九年六月同判士付下之
親交を機曾得中付佐長、性終服務振
子ヲ知レ得タル
被告平時佐長、性遇順ニ之非常ニ其面國士
性下之
平被佐佐判長、平時付下之判長、受領
修務事ニ之、以後年有半ニ至リ要天候下
又如何ニ定被中ニ在リ之日、性終、料道
ヲ下ト被歩ニ付、其此務進行、勤
之如何ニ其金被終テカ、又彼國何ガ責任感
同被下之被、其六、アリ、其カ平時重信カ、
件ニ其被下之被、其六、アリ、其カ平時重信カ、
ニ上言、分金、被ニ被告、性終、個只、
行動、其被下之被、其六、アリ、其カ平時重信カ、

彼國國交同公 不棄不計以爲不共 露命全
止之得矣 寧行此而求之 元 時之用 止之得矣
雖終終 終終 終終 終終 終終 終終 終終 終終
上之彼 終終 終終 終終 終終 終終 終終 終終
之 終終 終終 終終 終終 終終 終終 終終

以終終 終終 終終 終終 終終 終終 終終 終終
明寬大 終終 終終 終終 終終 終終 終終 終終

九月一日

仁文二部

ミナモトガタリトシヨリニハナリ
得カタク一人ニ愛サキ且尊厳ナリ
居ニ来ハコトニモアル一モナリ

彼等神ノ意カガタナハコトニモ信ジテ
オハラウ又自ノ息ト云ヒタ的部所長
ノ命令ヲコシテ事モ出来ズモラヤセ
テビビテサツク神意疑ハシテ救ハシ
ミヤルコト事ナセタ

今事、自ノ父大尉ノタケトニ
中尉ノ家ト共ニ救カレタガ彼、
タクトハ復ニ之報ナタトナリ

我ハ一思ヒスル所ヨリ彼、如キ人
者、一命ヲ救ハキ事ニ至リテ私自信
心ニハスルモハナリタ

其ノカキタニアルカハ上申述ニ
テ其ノ意カハシテ彼等ノ信カテ
テモ刑ヲ減刑カシ一日ノ早ラ脱ラ
リ、一日ノ早ラ脱ラシテ事ナリ

終リコトニ、裁判長、其事、
情、救カレタ

數 類 書

父島岡原戦争裁判被告陸軍佐長 中村重信

一 被告中村重信ハ私が父島ニ於テ独立歩三八大隊本部ニ勤務
中ノ友人アリシヲ。元來私ハ自己封鎖的ナ。極メテ非社交的ナ
性格ヲ容易ニ友人ノ末ナクモテアリマスガ彼モ勤教力シテ本部
生活ニ年三月ニ於テ然モ夫々勤教力先ヲ別ニシテ我々が友人ト
シテ結ビシタコトハ決ニテ偶然ナリタコトヲ思フテアリマス
彼ハ人ニ接スルニ當中ニヤ大類ヲ淫心過剰明朗。ヨリ同僚ニ交リ
部下ヲ慈シ。又ヨリ人ヲ容ルル雅量ヲ有シ居ツタガ故アリ
コトヲ思フテアリマス。彼ハ平素中村處ナ健康体アリシコトガ
不幸病ノ起ストハトナリ高熱ト其後、衰弱、爲約四十日程
A型ペウクス疑ニテ病取シテ、當時私ハ友人トシテ又衛生
下士官トシテ最モ多ク彼ノ看護ニ當リシヲ其時彼ノ如
何ニ責任觀念ガ旺盛デカ如何ニ己ノ任務ニ忠實デカ
カ。シテ如何ニ命令ト己ハ水丈ニ辞セトス。絶対服従的態
度ヲ示ルカヲ親シク見タリテアリマス
其病ノ初期ニ於テ屢々私ハメタニモ拘ハラズ受診セテ又コト止
メタニモ拘ハラズ五九度ナリ高熱ヲ抑ニテ當時彼ガ任務トシテ居
リマシテ師團ノ命令度領、爲殆ド私等ニ隠シル如クニテ
出向イタコトモ一再ニ止マテカキタリテアリマス

私、彼の方より直接筆達す之ヲ極小ニ書道ニ云テ可トモアリ
マシ。彼が其後四度、起スル高熱、爲余低ナリ就寝
ニ依リ之ヲ時々送ニ命令受領、許可ヲ能ク私ニ封シ
テハ之ヲ強要スル有様アリマシ。長期、高熱、期間ヲ過
ヤリ時彼ノ衰弱、微塵然トナリサニ健康ヲ誇リ、彼ニ日一
日ト眼窩ノボミ、頬癭也、頰也青黒、漸ク彼ニ静カニ
療養ニ専念スルコトヲ命ジテ到ツタリテマシ
通常本病ヨリ、回復ハ一月モ二三月ヲ要スルガ例アリマシ
ガ彼ハ其回復、初期ノコトアリマシ。或モ方杖ニ進ム、何カ
ラ歸テ来シ、然レハ子ノ様子、彼女ヲ思フ、何カへ行キ来タ
ノカト私ニ之ヲ詰問シ、調子ヲ静メ、肉ヲタテ「命令受領
ニトシ答ニ私ハ啞然トシ之ヲ訊ク」アリマシ。
彼ハ其期上官ヨリ「中村マダ命令受領ニ行ケヌノカトアガモ
彼が急ナリ休テ居ルカ、如キハ切テ言ハルナリテ休業モ
相当長キコトヲ送ニ居タマシ又支持テ去探ケタトナリマ
シ」之ヲ私ハ驚愕シ直ニ之ヲ事ヲ筆達ニ告テ筆達ヨリ
彼ハ尙静養ヲ要ニ来タシ、行郵ヲ許サヌコトヲ彼ハ上
官ニ通ジテ之ヲ止メタコトガアリマシ。
之ニ依リ彼ヲ見ルニ彼が如何ニは然ノ人間アリマシカガ明
ニセリト思ヒマシ。又彼が本懐ニ決テ裁セリニ到
ラ石炭國が何テアツタリマシ。視テ之ニ人ガアト存セマシ
私ハ痛切ニ日本軍隊ノ命令が如何ニ至嚴ナリトシ又
如何ニ緩シ、服従ヲ要求セテ居タカヲ考ヘテナリマシ

2.

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ソレヲ殊ニ我が第三〇大隊ガソノ命令服従、最モ坂
ヲニテ実施部隊ヲアツタトシ、ソノヲ附加ヘタト思ヒマス
被名中村ニトシテ命令ハ又通リ絶對ナリ、不可避的
ナレバ、ソレヲソレヘ服従ハ強要セシタモ、ナリ、避ク
ラ得ヤンガ故ニ行ツタモト確信スルモノアリマス
本事件ニ於テハ彼ノ行動ハ總テ命令ニ基キ命令ニ基キ
ル事トナシマス、彼ノ自由意志、如キニコニ一指モ差撥ム、余
地ナカリシヲ思フモノアリマス、彼ハ早チ命令、他偶ナリ、
「ボート」ヲアツタニ過ガナシトナスモノアリマス
何卒明察アル御取調ト、温情アル内裁を、依リ被名
中村重信ニ市安見大士、市安見大士、市安見大士、依リ被名
中村重信ニ市安見大士、市安見大士、市安見大士、依リ被名

歎歎者父島謹入

陸軍衛生伍長 篠俊一郎

昭和二十二年九月八日

父島関係戦犯罪裁判長閣下

敬啟者

錢氏裁判書上註裁判官少係對
文書係戰爭裁判被告陸軍五長
中村重信付御款收

中村正氣が独歩三ノ大塚副官と工務

敬啟者：本行因業務需要，現已遷至新址營業，特此公告。

新中村の本部に於ける日部出張所

中村は、真面目な学生

五派天下士歸之

彼は上官の命令に如何困難を排し

此之謂實行政體之性理之所在

又何僚。信真。原。下。田。心。事。

親友の心をなやませる

中村の主任は命令を教頭、教員に

人亦有人，一命之危，餘下無幾。

最難之事同死，二軍之患，有死而後生。

神國同志會

用膳目ニモ彼ノ身ヲ休メ得ル由ニあるに
抱キ彼ハ私ガ又同僚ガ又彼の部下ガ
減食ニ至ラ腹ヲ痛ミ知リ莫救ヲ行ハ
我ニ至リテ未ダ復ヲ保持セシメる事ガ却
てありモ此ノ事ニ於テ彼ガ如何ニ痛感
したかを知らざる事ガある事アリ
此ノ不幸な生員。彼ガ不幸な犯罪被害者
なり。我々ハ此ノ實ニ此ノ思ハる事
中村ノ生員ガ過犯なるが故ニ上官。命令は惡
しき事ニシテ行はるゝと思ふ事
上官。命令は惡しき事ニ論ずる事ハ服従ノ教
育ニ違背するが故ニ彼はなし。実行は思ふ
事
我々ハ彼ガ不幸な事ニ上官。命令は上官を憐れ
実行は事柄に彼の困窮生活の端
此ガ裁判長南木君に裁判官の如く様
出度大なる忠告を我々共々思ふ事

昭和二十九年九月一日

陸軍大臣 陸 嘉 春

貴國領事官 羅 新

裁新及部下

元衛生上等兵

佐藤嘉三

謝頭書

被害元陸軍軍曹
同 元陸軍伍長

森 安正
中村 重信

右者二名二國之此ヲ私言ヲ述ニ裁判長
並ニ同僚諸君、貴仁心以裁量ヲ期
待致シマス

一、白場ノ所、兩名、部隊長ヲリマシタガ出荷
異狀者トモ思ヒル程敵前ニ命令者アリ
命令異友ハ勿論、意旨具達者ニ對シモ暴
力ヲ振テ事ヲ下ニ官兵等嚇恐セシメ
、存存テシテ地ヲ彼等ニ名ニ事ヲ言フ比到
ル心、余有ハ無カシタ事ト思ヒマス

二、當時白場、命令異友又ハ隠蔽ニ態度
ヲ表シ者ハ死ヲ以テ罰セラル覺悟が必要ナ
リタ事

三、三〇大隊、何全命令ガレバ彼等ト同様、
運命ヲ免レ得ナカシタデアロウト思ヒマス

四、兩名共ニ股下ニ官兵ニ比シテ言行共ニ優秀ナ
リト聞ケタ事

66

To Your Honor, the President of the Military Commission

PETITION FOR CLEMENCY IN THE CASE OF NAKAMURA SHIGENOBU

I submit to your Honor my humble petition for clemency in the case of Corporal Nakamura Shigenobu, who is being tried before your court.

Corporal Nakamura was obedient and warm-hearted in his daily life, and diligently carried out his duties.

The reason that he committed an atrocious act against an American prisoner of war was because of the strict observance of orders which is required in the Japanese Forces. That this act was committed much against his own will is clearly shown in the words he uttered later. He said, at a later date, "I have undergone the most painful experience of my life."


I believe that he must be filled with emotion at sitting in the accused's seat charged with an act which he carried out according to orders, and not of his own accord.

I feel the deepest sympathy for him because of this.

I humbly beg that Your Honor take the above extenuating circumstances into consideration and be lenient in dealing with him.

Kurosawa, Toshio
First Lt., Intendant, IJA
Independent Inf. 308th Batt.
Chichi Jima.

I certify the above to be a true and correct translation of the original petition of Kurosawa, Toshio, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter.

PETITION

To Your Excellency, The President of the Military Commission:

Corporal Nakamura, the accused and I served in the same company for about three years after we landed on the Chichi Jima Islands. In 1944 he was attached to the 308th Battalion Headquarters.

I cannot help but sympathize with all my heart with the accused, Nakamura Shigenobu.

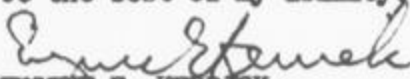
When he was with me in the same company, he was bright, sincere, and diligent, and was willing to assist his comrades when he found them in trouble. He was such a noble-hearted man, and his admirable character did not change when he was attached, afterward, to the 308th Battalion Headquarters.

The reason that Nakamura, a sympathetic man, became one of the accused was not due to his will but the severe order of his superior which obliged him to commit a criminal act.

Your Excellency, I beg you to deal leniently with Nakamura.

Chichi Jima Witness
Kurimoto, Tsutomu

I certify the above to be a true and correct translation of the original petition of Kurimoto Tsutomu, in Japanese to the best of my ability,


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter.

PETITION

To Your Excellency, The President and the Members of the Military Commission:


I knew the accused in the Chichi Jima War Crimes Trial, former Corporal IJA, Nakamura Shigenobu as a messenger non-commissioned officer at headquarters. Every time I think of how Nakamura travelled those several miles every day to go and receive orders at the Division headquarters on foot, rain or shine, I am deeply impressed at his strong sense of responsibility, and his obedience to orders.

Learning that Nakamura is to be tried before a military commission, I am confident that whatever he did was carried out under order, and that there was no other alternative.

I humbly beg that you will be lenient in dealing with Corporal Nakamura.

Uchimura Fukumatsu
Former Master Sergeant IJA
Chichi Jima

I certify that the above to be a true and correct translation of the original petition of Uchimura Fukumatsu, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION FOR CLEMENCY

To Your Honor, The President of the Military Commission.

I came to know Corporal Nakamura on January first of this year, when investigations were going on concerning this incident. I had no opportunity to become acquainted with him before this, and consequently our period of association was very brief. But from what I have observed of him and from what I heard him say during this period, I came to the conclusion that if the Corporal had been fortunate enough to have been attached to a better unit, and had had a better commanding officer, he would never have committed the crime for which he is being tried at present.


I can say with certainty that the reason Corporal Nakamura is one of the accused in this incident is because the absolute obedience to orders was imperative in the Japanese forces. To put it another way, it also shows that Corporal Nakamura had an unusually strong sense of responsibility.

In your previous investigations I believe you must have already realized that it is not often one finds a person as mild and sincere as Nakamura, I believe it is such people indeed, that Japan needs for here peaceful reconstruction.

I beg your Honor that in your most fair and just trials, special consideration will be given Corporal Nakamura.

Hiroishi Hajime,
Chichi Jima Armed Forces.

I certify the above to be a true and correct translation of the original petition of Hiroishi Hajime, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION

To Your Honor, the President of the Military Commission.


I lived with NAKAMURA from the time he was transferred as a member of the 308th Infantry Battalion Headquarters till December, 1945. He was physically very strong and was willing to do such hard work as building fortifications in the burning heat or the transportation of heavy equipment along steep slopes. He was appointed corporal in August and served as a liaison messenger. Since he had a great sense of responsibility, he discharged his duties fully at any time whether it was cold or hot, rainy or windy, or under the severe bombardment of war ships and air raids. He was obedient to his superiors and was trusted and loved by them as well as by his comrades. The act he committed was not what he intended to do but what he was obliged to do by an absolute order.

I beg you and the officers concerned to deal leniently with him.

Former Sergeant-major at Chichi Jima.

WADA, Seiji

I certify the above to be a true and correct translation of the original petition of Wada Seiji, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

0630

PETITION FOR CLEMENCY

To Your Honor The President of the Military Commission.

In spite of my lowly position, I submit my humble plea to the honorable President and the members of the Military Commission on behalf of Corporal Nakamura Shigenobu, who is now standing trial in your court.

As I worked in the same battalion to which Corporal Nakamura was attached, I had many opportunities to talk with him and came to know him well.

Corporal Nakamura is good natured and warm hearted, with a strong sense of responsibility. He was very considerate and sympathetic, and at times when I went to the Battalion Headquarters to receive orders, he tried to, and did arrange things conveniently for me. I am one of the many who considered it a pleasure to be associated with Corporal Nakamura.

It must be a result of the fact that he acted under very strict orders and against his own will that Nakamura has been arraigned before a military commission. I firmly believe that he did not act of his own free will.

I humbly beg that you will award the accused, Nakamura Shigenobu, a lenient verdict.

Takahashi Sawakichi,
Former Sergeant, IJA,
8 September 1946.

I certify the above to be a true and correct translation of the original petition of Takahashi Sawakichi, in Japanese to the best of my ability.

Eugene E. Kerrick
EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION

To Your Honor, The President of the Military Commission

I humbly place my petition before Your Honor, The President of the Military Commission concerning Corporal IJA NAKAMURA Shigenobu who is among the accused in this trial.

I lived with NAKAMURA since April, 1943 until the end of December, 1945.

He was bright and pure in nature, and was loved and admired by his comrades and superiors.

He worked very hard at the 308th Battalion Headquarters and looked after his men well. I can recall well his figure walking with a cane to the Headquarters when he was still weak from his illness. Since Major MATOBA had been attached to the Headquarters, we were taught that we had to obey the order of superiors on any account and that if we failed to obey we should be executed.


I think Corporal NAKAMURA, who is so pureminded would never behead human beings. It was because he had to obey the order. That is to say, Corporal NAKAMURA was nothing but an arm of Major MATOBA.

He was obliged to do so as he was the direct subordinate of MATOBA. I beg your kind consideration on what I have just mentioned and that you will deal leniently with him.

Chichi Jima Witness.
SUGIYAMA Akiba

8 September 1946.

I certify the above to be a true and correct translation of the original petition of Sugiyama Akiba, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION

To Your Honor, The President of the Military Commission.

In spite of my insignificant position, I humbly offer my petition to Your Honor and the members of the Commission in the case of Corporal Nakamura Shigenobu, who is now being tried before your court.

I have lived with Corporal Nakamura for five long years. Corporal Nakamura is a very kind and responsible person. We lived together on Ani Jima for two years, and during this period, I remember that once because of a faulty electrical connection, the galley caught fire. On this particular day, he was the corporal of the guard. Discovering this fire quickly, he drenched himself with water, jumped in amidst the flames and rescued a sick buddy of his. In doing this, Corporal Nakamura himself received severe burns, and fell to the ground. Nakamura asked about the condition of the friend he had rescued even while he was being born away on a stretcher. DK


Corporal Nakamura, whose character I have just described is one who does not mind sacrificing himself to save others.

How could such a person kill someone in cold blood? I am sure that this was done upon the order of a strict superior officer.

I humbly beg that you will take the above circumstances into consideration and award the accused a lenient verdict.

Okiyama Tsutomu
Chichi Jima Witness,
September 8, 1946

I certify the above to be a true and correct translation of the original petition of Okiyama Tsutomu, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION FOR CLEMENCY IN THE CASE OF NAKAMURA SHIGENOBU

To Your Honor, the President of the Military Commission.

Please allow me to state what I know of Corporal Nakamura's character.

Corporal Nakamura was called into the Army and came to Chichi Jima at the same time I did, which was in June, 1941. After that we were in the same company and went out on many work details together.

Corporal Nakamura was a man of action, and always carried out his superior's orders. His physical strength was superior to mine, and he worked harder than anyone else.

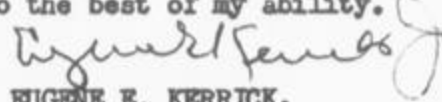
When he saw a weaker person suffering under the strain of heavy labor, he would gladly help them, and did his utmost to improve conditions.

He was also kind to his subordinates, and when his subordinates failed to do something correctly, he helped them until he thought they acted satisfactorily. From what I saw of him, I am convinced that he is a person of sterling character.

I can only say that such a fine person could only have committed such an act only because he was forced to under orders.

Asanuma Tsugio,
Former member of the Chichi
Jima Army Forces,
September 8, 1946.

I certify the above to be a true and correct translation of the original petition of Asanuma Tsugio, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION

I humbly place my petition before the President and the members of the commission for clemency for Corporal (LJA) Nakamura Shigenobu.

I lived with Corporal Nakamura for about three years. He was very bright and very kind in nature, and was admired by his men and by his superiors.

On account of the short rations at Chichi Jima, one of his men became ill because of malnutrition. In spite of the fact that he was busy, he went down to the ocean on a chilly day, during his spare time, to catch fish which he gave to his patient. He spent many sleepless nights looking after him, and the patient became better at last after one month.

You will understand by the above paragraph that he is a kind person. I can swear before God that he never cut down human beings of his own free will.


I beg your kind consideration of what I have just related and that you will deal leniently with him.

Chichi Jima Witness
Konishi Masanosuke

8 September, 1946.

To your Honor, the President of the Military Commission.

I certify the above ~~xxx~~ to be a true and correct translation of the original petition of Konishi Masanosuke, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

To Your Honor, the President of the Military Commission.

Petition for Clemency in the Case of Nakamura Shigenobu.

I beg that you will be lenient in dealing with the accused Corporal Nakamura Shigenobu, who is about to receive sentence.

I was attached to the same company he was at Chichi Jima for a period of three years, and during this time, I came to know him well.

Corporal Nakamura was a group leader in his company and was very obedient and sincere. Thus he was respected as an elder brother not only by we subordinates, but even by his colleagues. Nakamura was trusted implicitly by the senior officers, and was respected as an honest and gentlemanly young man.


As he was like this I believe that when he received orders, he carried them out faithfully, thinking that it was his duty to do so without argument though it may not have been to his liking.

I think that this criminal action did not originate with Corporal Nakamura but that he was forced to commit this offense by the strict order of his superior.

I firmly believe that Your Honor will give the accused a fair and just trial and I humbly beg your most sincere consideration.

Arai Masao
Chichi Jima Witness

I certify the above to be a true and correct translation of the original petition of Arai Masao, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION FOR NAKAMURA SHIGENOBU

Former Corporal, IJA, Nakamura, Shigenobu, worked ceaselessly day and night as messenger for the 308th Independent Battalion Headquarters, and since December 1944, as the head of the code group. He was trusted by his superiors and colleagues, and loved by his subordinates. Nakamura was always obedient to the orders of his superior, and had a strong sense of responsibility. This being the case, at the risk of his life, he carried messages through a typhoon that demolished the communications network and made passage almost impossible.


He was extremely kind to his subordinates, and thought of them just as a mother would think of her children. As a subordinate of Corporal Nakamura, I was always aware of his superior character.

Corporal Nakamura excelled in swimming, and when food became short, he used every spare moment during which he should have been getting well deserved rest, to go to the ocean and catch fish, which he later had us eat. The Battalion Headquarters was located on the top of Mikazuki Hill, where the water supply was very poor. Because of this, we could not wash our clothes or bathe as we desired to. Corporal Nakamura, who always noticed the difficulties his men were having, made every effort to give us the opportunity to descend the hill, in turn, letting us wash and bathe more than the others did.

I am still wondering if it is true that such a highly esteemed person as Corporal Nakamura is being tried. If, however, he had committed any offense, it must be because of a very strict order, from which he could not escape. I beg the honorable President and members of the military commission to be lenient in dealing with him.

Hiyashi, Hideo
Formerly Japanese Army,
Chichi Jima.

I certify the above to be a true and correct translation of the original petition of Hiyashi, Hideo, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNR
Interpreter

PETITION FOR CLEMENCY IN THE CASE OF NAKAMURA SHIGENOBU

To Your Honor, the President of the Military Commission.

I humbly place the following petition before the honorable President and members of the Commission concerning former Corporal IJA, Nakamura, Shigenobu, who is among the accused in the Chichi Jima war crime case.

I became acquainted for the first time with Corporal Nakamura when I was serving at the Chichi Jima Fortress Headquarters, and though at that time I only knew him as a warm-hearted and mild person, after I became attached to his unit in June 1944, I was given the opportunity to associate intimately with him, and become acquainted with his character and his attitude towards his duty.

The accused, Corporal Nakamura, is obedient by nature, and was a very sincere non-commissioned officer.

Attached to the headquarters after he became a non-commissioned officer, he was appointed as the messenger who went to receive the Division orders. For a year and a half after this, he carried out his duties silently, going to the Division and back again on foot, a distance of over eight kilometers. He carried out this task every day, rain or shine, even during the heaviest bombing. I guess this shows how strictly orders are observed, and also what a strong sense of responsibility Corporal Nakamura had.

As a colleague of his, I regret that he became involved in this incident while in the act of carrying out his duties, and that the orders of his superior officers forced him in the end to commit an act which his character would not have permitted.

I have heard that Nakamura himself said that although it was far from his own will, he had been forced to commit such an act because of his superior's orders. After the war ended, when his superior officers attempted to deny having any connection with the crime, I witnessed the scene where he was taken into custody, and saw his manly attitude.

I beg that you will take into your kind consideration what I have just mentioned above and deal leniently with him.

Soya Saburo,
Chichi Jima witness.
September 8, 1946.

I certify the above to be a true and correct translation of the original petition of Soya, Saburo, in Japanese to the best of my ability.

Eugene E. Kerfick
EUGENE E. KERFICK,
Lieutenant, USNR
Interpreter.

AFFIDAVIT FOR THE CHARACTER OF CORPORAL NAKAMURA:

I lived with Corporal Nakamura for one and a half years at Chichi Jima. He was very kind to his subordinates, had a strong sense of responsibility and was full of chivalry.

As for his kindness to his subordinates I mentioned that in my petition for his clemency. We knew that he exerted himself to correct one of the faults of the Japanese army -- that is to treat harshly the weak, the juniors. The cruel treatment of us by senior soldiers continued then every day and night. How often we did wish to die rather than to be treated in this way.

In such a case he often told me, "I know that you are all honorable persons in your civil lives. I never treat you like horses or cattle as other soldiers do. It ought to be understood when we consider these things". How often did we feel grateful for his kindness.

Other senior soldiers came to treat us well following the example of Corporal Nakamura. After all, I can not believe that he would behead a prisoner. That is the reason why he was loved and admired by many people. He could not refuse the order of the commanding officer, Matoba, who was called the devil of Chichi Jima. He sacrificed his life for Matoba's amusement, and beheaded the prisoner weeping in heart and apologizing to his family.

I was put in the stockade with Corporal Nakamura at Omura, Chichi Jima. His attitude at that time was really respectable.


I believe that a man who has an honorable character is really necessary for the reconstruction of new Japan.

I beg your kind consideration concerning what I have just mentioned and that you deal leniently with him.

For the kindness of Your Honor, The President and the Members of the Commission, I thank you.

KAWAKAMI, Toshio.

I certify the above to be a true and correct translation of the original petition of Kawakami, Toshio, in Japanese to the best of my ability.


EUGENE E. HERRICK,
Lieutenant, USNR
Interpreter

PETITION FOR CLEMENCY IN THE CASE OF CORPORAL IJA NAKAMURA SHIGENOBU:

1. Nakamura Shigenobu, the accused was my comrade when I was serving at the 308th Independent Infantry Battalion Headquarters, Chichi Jima. Timid and unsocial in nature, I had only few friends. So, I think it was not an accident that I became intimate with him while we were at the Headquarters for one year and three months, though we had different types of duty.

He was always amiable and kind to his comrades, benevolent to his men and considerate of everybody. He was generally in good health. But he fell ill for about 40 days on account of a high temperature and emaciation. It was suspected that he had paratyphoid-A. I nursed him as often as I could as his friend and as a medical non-com. Then I understood that his sense of responsibility was strong, how he was faithful to his duty and how he was willing to obey the order of his superior even at the risk of his life.

During the first period of his illness he never tried to consult the doctor in spite of my advice. And though his temperature was as high as 39 degrees centigrade, he dared to fulfill his duty — to go to the Division Headquarters to receive orders.

Therefore, I was obliged to ask the surgeon to prohibit his doing so. His temperature went up to forty degrees centigrade and he was forced to remain in bed. While there he entreated the surgeon to permit him to do his duty as orderly, and begged me also. His high temperature continued for a long time and his emaciation became serious. His eyes became hollow, his cheeks thin and his face pale. Finally he began to recuperate.

This kind of illness requires one and half a month to two months for recovery. One day before he had recovered his health completely I saw someone coming back with a cane tired out. It was he. "Where did you go?" I demanded. "To receive orders". That was his answer. I was very surprised and asked why.

He was scornfully asked that morning by his superior. "Can't you go to receive orders yet?" as if he had been idle. So he felt awkward about remaining in the presence of the pitiless officer. He started out.

I was amazed and told it at once to the doctor who forbade his doing so since he was still weak from illness.

From what I mentioned above, you will see what kind of person he is. You will understand why he had to be accused in this trial. I feel keenly how strict orders were in the Japanese Army and how strictly we were required to obey them. In addition, I should like to add that at the 308th Battalion obedience was most strictly required.

Order was absolute and inevitable for the accused NAKAMURA. He committed the crime because he was compelled to obey the order and he could not escape from it.

His behavior in this affair comes from the strict order and nothing else. His liberty or his will could not exist there. He was nothing but a robot which moves by orders.

I beg your kind considerations concerning what I have just mentioned and that you deal leniently with him.

EUGENE E. KERRICK, Lieutenant, USNR, Interpreter
I certify the above to be a true and correct translation of the original petition of ISO Shunichiro, in Japanese to the best of my ability.
8 September 1946.
Chichi Jima Witness
Medical Corporal
ISO Shunichiro

PETITION

I humbly submit my petition to Your Honor for clemency in the case of the accused Nakamura Shigenobu, former Corporal, IJA, now being tried before you, in the Chichi Jima War Crimes case.

Nakamura was my right hand man while I was serving as adjutant for the 308th Independent Battalion. I know well the daily life of Nakamura at the headquarters. He was a fine, earnest and gentle non-commissioned officer.

He carried out his superior's orders faithfully, and was obedient, however, the orders were difficult ones to execute.

He was trusted by his colleagues, and to his subordinates he showed a fatherly love. The main duty of Nakamura was to go to the Division Headquarters to receive orders. In spite of almost impassable roads and the heavy bombing he walked there and back, a distance of about 5 miles every day without fail.

Sunday was indeed the day of rest for Nakamura, but in spite of this, when he knew that his colleagues, his subordinates and myself were hungry because of the lack of food, he went fishing and supplied us with much needed nutrition. I believe that this one fact alone is enough to show how considerate he was to all. I feel sad that such a character is being unfortunately charged with a war crime. I think that because he was very meek by nature, he had to carry out his superior's orders, being fully aware that this act was an evil one.

As he had been taught that orders of superiors were to be executed without any argument about whether or not they were proper, he had to carry out the orders, though it must have tortured his soul.

I have stated a small part of Nakamura's daily life, and also expressed my ideas that the Corporal carried out orders because he had no other alternative, though it was certainly against his will. I beg that Your Honor will take the above circumstances into consideration and deal leniently with him.

Kanmuri Yoshiharu,
Captain, IJA,
September 8, 1946.

I certify the above to be a true and correct translation of the original petition of Kanmuri Yoshiharu, in Japanese to the best of my ability.

Eugene E. Kerrick
EUGENE E. KERRICK,
Lieutenant, USNR,
Interpreter

PETITION

To Your Honor, the President of the Military Commission

PETITION FOR CLEMENCY IN THE CASE OF FORMER SERGEANT MORI YASUMASA AND
FORMER CORPORAL NAKAMURA SHIGENOBU

Please allow me to express a part of my feelings, fervently hoping that the Honorable President and the members of the commission will be lenient in their decisions.

Major Matoba was the Commanding Officer of these two defendants and he was so strict in his orders that he was thought to be a person with an abnormal character. He frequently subjected not only those who neglected to follow his orders, but also those who offered their opinions, to displays of brutal force. The non-commissioned officers and men were in a state of constant fear and dread of him and I believe the accused did not have the presence of mind to consider the nature of the order before they acted.

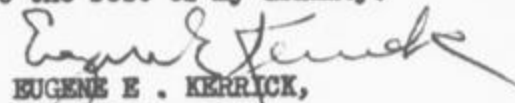
At this particular time, those who did not carry out Major Matoba's orders or showed signs of timidity needed to be prepared for death as punishment.

I believe that anyone in the 308th Battalion, if he had received the order, would not have escaped the unfortunate circumstances in which the accused find themselves today.

I heard that the two accused are outstanding compared to the other non-commissioned officers and men in their speech and in their deeds.

Superior Private IJA SATO KIZO
Former Medical Corpsman.

I certify the above to be a true and correct translation of the original petition of Sato, Kizo, in Japanese to the best of my ability.


EUGENE E. KERRICK,
Lieutenant, USNH
Interpreter

西南太平洋艦隊
最高司令部閣下
各位殿

23 (1)

484

0643

8. July 1946

西南太平洋艦隊總司令部下殿

各 位 殿

知、戦時忠誠勲元軍艦大尉松下兼久、長兄が
9月22日、去る六月26日、兼久、タキニ、歎服者ヲ呈出シ
タリテアリマス。如、本人の人物証人トシテ Guam
島ニ所ニテイタダク尋テ更ニ歎服致シマシタ。
未ダリハ許可ニ就キテ、御返事ヲイタダシテ居リマセン。

此ルニ、悲ムベキ事ガ起リマシタ。如、1945年
長崎市ニ於テ(爆心地ヨリ500米以内ノ長崎区神大
寺ヲ破壊シテアリマシタ)原子爆弾ヲ受テ145万人
ノ死傷者、1億5千万人ヲアリマス。全ク奇蹟ニア
ラズ。別充テ断言セ、如、恐ロシイ原子病状ガ
アリテ死ニ就キマシタカ、幸ニ輪廻(22回)ニ入
リ得マシタ。最近身体、具合カシイ安心シテ
長崎ヨリ東京ニ去テ、此ニ止マシタカ、身トヲ助ハン
ト、見テ、情ヲ歎服者ヲ呈出シテアリマス。 Oyama

此ニ、東京、夏、暑サ、タカ 7月20日付イ山(大山)
ヲ登山時、食餌ヲ起シテ倒シタリテアリマス。此ニ、東京
市大臨海部内科ニタリマシテ治療ヲ受テ2日
Alencia hemorrhagicaニ患テ、恢復カ充分ニ
7カ合リマシタ。如、返答、ス、Xニ、Guam島ニ赴
ク、断念シテ心ト3又板ニテマシタ。如、折角歎服
者ヲ呈出シテオケテ、病者、タキ断念シテ心ト3又7カ合
230(2)

485

0644

残念な程に思つた事だ。

私... 関心= 對此更に心をなやまして 結果、
心情が 1/4 的ニトリ下サイと云ふ Kanelaria ヲ 無罪
ニシテ イタツク 採 散新 以ス 次ノイデハ 然ル。

長崎市馬場 30

松下 兼 文

(長崎医科大学助教授、醫學博士)

歎願書

尊敬の裁判長閣下へ御願ひ致します。

松下山久君は、母校長崎醫科大學の友を代表して一言申し上げます。御許へ下さい。

松下山久君は、資性すこし誠實温和にして、我々學友は、交遊し信實温和

彼程に強し正義と平和を愛する者、末に當面を見え、往つてあります。

彼は、亦又ホッソマンと云ふ紳士の態度に我々、模範をありました。

彼の人物行爲を知り我々は、彼が犯罪を犯したもつとは如何にも考へる事

が出来ません。

我々は裁判長閣下の公正な判決に期待し、彼の釋放、一日も早くさん

事、熟願し、やみません。

昭和二年六月十一日

長崎醫科大學助手 小笠原 長秋

一
歎願書

本町出身元海軍軍医大尉松下兼久君喪ニ
入東亞戦争ニ召集サルヤ父島ニ從軍中、處此ノ
經復員歸還セルアリ偶々父島從軍中ノ出来事ニ依リ
召喚ノ命ヲ受ケタリ

今茲ニ左記ノ者連名ヲ以テ本人ノ釋放ヲヲ歎願ス(2)

ルモノナリ

松下君ハ長崎医科大学ヲ卒業シ身心²³⁰

共ニ穩健人物又忍ノ模範ナリ家庭ニアリテハ父兼精

氏頭腦明晰人物又至リ穩健篤實町民譽ヲマ

ツ町長ニ推薦シ在職拾余年又農業會會長

トナリ其ノ在職期間拾余年町ノ重要職ニテハト

二十有余年現在ニアリテハ老齡ノ身ヲ以テ國民學校

後援會長トシテ日夜寢食ヲ忘レ家事ヲ忘レテ公務ニ

勸勞セラル又長兄ハ長崎医科大学ヲ卒業後
 同大學ノ助教トシテ醫學教育ニ精進シ
 醫學博士号ヲ授與セラレ家族ハ一同名實共ニ
 町内切ツテ模範家族タリ果シテ本人ニ如何ナル過誤
 罪責アリシ哉此實ト思ヘカルマヤリ
 何卒御寛大ナル御取計ト多ク下サレ度茲ニ
 謹啓申上ル次第ナリ

昭和二十一年六月十七日

家長長中全ニ
 松下業純
 夏久利雄

中役中全ニ
 宮本原正雄
 川井田安夫

書記中全ニ
 今村興助

清田之助
 松下昌宜
 瀨田時子

荒田榮吉
 口ノ町又三
 小西須美枝
 瀨田純友
 長田

歎願書

元海軍々醫松下兼久氏ハ其性
温厚篤實ニシテ眞ニ人類救済使
命ヲ辨ヘタル人格ニシテ戦争法規人類
道徳ニ違反スル如キ行爲ハ絶対ニ無キ
コトヲ確信シマス願ハクハ此ノ真特ニ御留意
下サレ無罪ノ御處置アラント歎願シマス

昭和廿年六月十七日

鹿児島縣姶良郡福所一五七八福森政雄一家

謝罪書

先般、貴松下業久代が厚生会議に権理中と聞き、私は
此處に代の罰と懐容ありんす。を切望し、謝罪する者で
あります。代が其の様な裁を受けらるゝは、さう
あるはしきも、代の自発的行動にはあらずし、上官の命
の行爲であるものを信ずる。代は常日頃親友間の交は持に温厚なる性格を有たてあり、
其の父業頼代は永年産業組合長に職し、町民の心望厚く、
此が父代は其の父の下、其の様な罰人として、は考へ得や、とも有
る。代の罰状は、所は洋かならずも、代の業重の温厚な
る性格を以て、私は代の権理を懐容ありし。切望する。その代

昭和二十一年六月十日

東京府知事 世良 御前
不審久 甲子

歎願書

松下兼久氏今度、裁判ニ對シ、特ニ無罪ヲ祈願致シ、
氏ハ性質特ニ溫行ニシテ、且又實父ハ福山町産業組合ノ
創立者ナリヨリ、民主主義ノ實行指導ニ當リ、拾有余年、
間組合長トシテ、且町民々父ト親マレ、大東亞戰爭ト同時
ニ退職身ヲ以テ、園藝農業ニ指導ナサレ。
兼久氏ハ其父ノ教訓ヲ受ケ居リシル關係上、殊ニ孝ノ元朝
文ナル事實ニ相違ナリ、無罪モ信ズル者アリマス。

昭和二十一年六月十八日

鹿児島縣姶良郡福山町福山八九九

久田喜太郎

十

款

致

松下兼久

右者杜者、此人ニシテ性温順一般
民トシテモ又軍籍ヲ在リシ旨モ常
ニ人道ニ違ハズ又博愛ノ精神ヲ
以テ強クシタルハ衆人ノ認ムトコナリ
今、後民主的の日本ノ建設ニ必要
ナル人物ナレバ特ニ放免方取計相
成ナ

昭和三年六月十日

康安島村始良親祐山所禱

重岳清治



494

グアム島の軍事法庭

裁判長 坂

238 (2)

0653

歎願書

松下第久氏、今度裁判に無罪、判決アラレシキ事ヲ
歎願ス。氏、無罪ヲ希フハ一般町民、声ニシテ
將束町民ノ大ニ勵ム。第久氏無罪ナレシキ事ヲ
吾々其ノ一人トシテ益々歎願スル者ナリ

昭和二十一年六月廿一日

鹿児島縣姪良郡福山町福山二七三

武石友彦



歎願書

松下兼人氏、今度、裁判ニ無罪ノ判決ヲ下サイ事
ヲ歎願シマス。氏ハ温厚ナル青年ニシテ、其ノ所業モ本人ノ意
志ヲ上ニ官令令止ムナクノ事ト思イマス。氏ノ無罪ヲ
歎願シマス。

昭和三年六月十八日

鹿児島縣姶良郡福山町福山二九二三

港勤助

歎願書

松下素久氏、今度、裁判・無罪ヲ印・歎願ス
 氏ハ性持・温行・ニテ・民・嚴父ハ福山町産業組合
 一創立者ヲ依然ヨリ民主主義・実行指導者ニ當リ
 十兩金身組合長トシテ町民・父ト親シト大至重
 戦事トナシテ退職身ヲ以テ園藝農業相續
 一指導者ナリシ素久氏ハ其父・教訓ヲ受ケ居テ
 朝夕・君を親友ナシ事實・相違ナシ無罪
 信スル者ナリ

昭和三年六月十六日 鹿児島縣警部福山町福山人八八

堀切雄保

歎願書

松下宗久氏が今度戦争裁判へ廻つて居られる
事を聞ひ非常に驚いた氏、性格は幼少より
温順であつて又郷土の最も純正とすべき人格者である
氏の最父松下宗高氏は福山の今白を築いた偉人である
一大男である即ち村長の要職に長年を務められ
尚孝老を令長とし氏、足續は又大なるものがある如く
は此の神の如き氏のお父又福山の如き人も松下宗久は
是非大なる大なる父を以て無罪の判決あらん事を
切望するものである
昭和四年三月廿一日
鹿児島県姶良郡福山三三七番地
小本 宗久 弘

歎願書

本町出身元軍医大尉松下兼久君、裏に大東亞戦争に
應召され、父島に従軍中、この程復員歸還せしむ
偶々父島從軍中の出来事に依り召喚の命を受けたリ。

今茲に左記の者連名を以て本人の釋放方を歎願するものなり。

松下君は長崎医科大学を卒業し、身心共に穩健人物又象の
模範たる家庭にありては父兼精氏頭腦明晰人物又至つて
總健篤實町民擧つて之を町長に推薦し、在職拾余年又農業
會長となし、其在職期間拾余年町の重要職にある事貳拾
有餘年現在ありては老令の身を以て國民學校後援會長
として日夜寢食も忘れ家事も忘れ公務に勤勞せらる。
又長兄は長崎医科大学を卒業後同大学の助教授として
醫學教育精進博士號を授與せられ家族は一同名實共に

町内切の模範家族たり果し本人に如何なる過誤罪責あり
い哉眞實と思ふものあり何卒御寛大なる御取計しを
爲し下され度茲に難願申し上げ次第なり

昭和二十一年六月十四日

福山町長
才吏員一同

豊平 金二
竹下 洲三
宮本 有正
竹下 嘉一郎
口所 國吉
淡 愛之助
松下 景純
重久 利雄
外 後 茂平

23(L) (2)

松下兼久氏戦争犯罪人として
 裁判の中心に立席されるを耳にし
 自念は彼の人格と學びを慕ひたし
 友の上の想ひを致せしその結果の
 事なる方へ通ボキと念ひつゝ
 懇款新書
 この福の所郷の生と暮りし
 この福の所郷の生と暮りし
 の念は彼の人格を慕ひたし
 温厚なる事彼を慕ひたし
 犯罪人と見做るは余りも
 痛々しい氣持をも抱く

501

0660

No.2

我々の友なるべし是非なりし彼は
 我々よりいづれもうるあるやま
 の中へと導びき入れて世うたうの
 感をもくきり深し
 そ彼が偉大なる待望の目ざし
 引取りしる事とに各生生活のまじ
 中へ高長のよりみちのせも彼の
 人路は男と女と
 やさしき母も似た慈母心の心
 の持主ふたつと人思ふふれ
 かく、如く彼の人物
 彼よりなびてゝ、慈母のまじと

No. 3

ペンと直つて 一月年、一ヶ月も
主とよせられ 彼、か、ぬ、く、後、
て、い、合、せ、何、年、宜、お、お、く
御、方、と、思、下、さ、る、と、お、致、ひ、申
上、り、ま、す、

三花見島島嶼福々片福々
福々々々々 田中 善和

歎願書

松下兼久君の戦争犯罪人として収容されて
居るのを聞き此所に敬属し歎願致す次第で

ありませう

松下兼久君は小學校時代私達より一年上級の
級長としてそのクラスは勿論下級生の私達を良
教へ道徳として下さり今でも忘れる事の出来ない

一人でありました

又兼久君の父上は私達の小學校の時私が福山市の
町長として又産業組合の建設者初代組合長として
町民を指導して下さった人で今でも人望ある人です

彼の父上の死き人を眞の民本主義的人と言ふ事か
出来たのでけいのかと思つた。その様な人を父とした
兼久君が、~~彼~~和罪人として收容されたのは彼の
罪ではなく、~~彼~~軍國主義的行動を止むべく
せられた指導者の罪。つまり軍閥の罪では有りかと
思つた。彼り彼の兄と同じく、~~醫~~に術也と良く
わきまを入れた人と思つた。——彼の兄は貧者には
白紙にて藥を與へた人です。
彼が如何なる刑に處せられたか分りませんが、
此の所を良く考慮され寛大なる處置を取られん
事を歎願致します。

右 兼久 春之

歎願書

目下、戦年犯罪の虞を以て拘留中の松下兼久氏は由緒ある義経に育ち
厳父は永年町長、産業奨励会長等、要職も歴任し、今尚その慈愛深き
人格は町民一同の敬慕するところであり、その子息である兼久氏も温厚な人柄
を以て通り親交する信頼も厚かつたのである。この度のやうな事象に
立ち到つたのはもとより本人の意志にほかならず、軍人として致し方なく上官の
命令に服したものとあせられ、われ／＼にとては惜むべき有為の青年
であり、それ故に裁きも重なり、是非も寛大ならぬ處を賜ふやう歎願致す。

昭和二十一年三月三十日

鹿児島縣知事 斎藤 孝

竹之下 雄一

歎願書

今度元海軍軍醫松下兼久氏の戦犯裁判
に際し、自分等の見たる氏は温和にして、且つ眞の
仁術と體得せる先輩なり。

人道上罪惡をなす如く先輩にはあらざると確信
する次第である。

若し戦争法規に違反せる行為ありとすれば
軍醫として又上官の命令により止むを得ず
執行したるものとて天へらわす

此處に氏の裁判に際し、寛大の處置無く罪
の重きありと事も切望するものなり。

昭和二十六年六月六日

同窓生

高野善道

鹿児島縣姪名即指所

田中義一

(印)

歎願書

元海軍軍醫大尉松下兼久氏は、現今軍事裁判審理中である
との由驚きました。氏の父は村長、産業組合長を勤める事多年、
の残された業績は偉大にして、その徳望殊に高く、村民は慈父の如
く敬愛し、本町の元老として、町民の信望を一心に集めてゐる方であ
ります。本人兼久氏は、その四男として、幼少より友情に厚く、純情にして
正義の念に燃ゆる信念の人であります。私共は小學校、中學校
時代の氏の性格も最もよく知っておりますので、決して悪い事をする
様ふ人ではありませぬ。もし出征中、悪い事でもありましたらば、
それは上官の命令で致し方なく、やうふ行爲もふしたものと、思ひ
ます。本人に限って、自発的に、よく、不事をする様ふ人であり、事
を保證致します。何卒此の点、御含みの上、特に寛容なる御取
扱いを、おし下さいます様、切に御願申し上げます。

昭和貳拾陸年六月廿

石原田 勇

歎願書

松下兼久氏ハ生来温厚篤実ニシテ常ニ
 郷土青年ノ師表タリシニ因リ此罪ヲ
 寛大ノ判決アラシキ事ヲ衷心ヨリ歎願ス
 此等デアリマス

昭和五年六月十三日

鹿児島縣知事郡福山町福山

一ニ三番代
 遠江敬二

聯合軍總司令官
 マツカサ一五郎殿

長崎醫科大學

昭和廿一年七月廿五日

長崎醫科大學長醫學博士 古屋 安平

Kōka Hayano



グアム島裁判長並ニ各位 殿

目下父島關係ノ事件ニテ戰犯容疑者トシテ裁判ニ附サレ居リマス元
日本海軍々醫大尉松下兼久ハ小官ノ大學ニ於テ四ケ年ノ課程ヲ卒ヘ
更ニ其兄松下兼知ガ助教授トシテ勤務セル我長崎醫科大學ノ精神病
學教室ニ暫ク實習生トシテ居リ後昭和十八年應召シテ入隊シタ非職
業軍人デアリマス
彼レノ學生時代群團ノ指導教授トシテ小官ハ親シク彼レニ接シタル
經驗ガアリ、彼レヲ能ク知り居ル者デアリマスガ、彼レハ資性溫厚
デ極メテ慈悲深イ青年デアリマシタ。

又彼レハ學業に忠實デ大學卒業時ノ成績モ全級ノ第三位デアリマス。
彼レノ性格上殘忍不遜ナ犯罪ヲ敢テスル者トハ考ヘ兼ねマス。
仍テ彼レノ爲ニ御寛大ナル裁判ヲ歎願致ス次第デアリマス。

長崎醫科大學

昭和廿一年七月廿五日

長崎醫科大學校長醫學博士 古屋 宏平

Kōki Hayano



西太平洋海軍司令部 殿

目下父島關係ノ事件ニテ職犯容疑者トシテ裁判ニ附サレ居リマス元
日本海軍々醫大尉松久ハ小官ノ大學ニ於テ四ケ年ノ課程ヲ卒ヘ
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デ極メテ慈悲深イ青年デアリマシタ。

長崎医科大学

又彼レハ學業に忠實デ入學卒業時ノ成績モ全級ノ第三位デアリマス。
彼レノ性格上強忍不逞ナ犯罪ヲ敢テスル者トハ考ヘ兼ねマス。
仍テ彼レノ爲ニ御寛大ナル裁判ヲ歎願致ス次第デアリマス。

歎願書

裁
司
所

297 (1)

514

0673

鹿兒島縣姶良郡福山町福山

厚地政信

西南太平洋方面

グアム島米軍
裁判官各位 展

丙ノ一 高知製

2976 (2)

515

0674

元海軍々醫大尉

松下 兼久 (當主)

ハ海軍々醫トシテ西南太平洋方面父島警備隊ニ所屬シ終戦後鹿児島縣福山町、自宅ニ歸還復員致シテ居リマシタ處其、後戦争犯罪人容疑者トシテ召喚ヲ受ケ貴軍法廷ノ裁キ、庭ニ立ツコトナツタト、コトデアリマス。

私ハ

石、兼久ト郷里ヲ同ジクシテ生レ、又親戚ノ間柄デモアリマス、其ノ幼少ノ頃ヨリ交リ彼ノ性格等良ク知悉致シテ居ルデアリマスガ、

彼ノ平素ヲ知ツテ居ル者ノ總テガ彼ニ限ツ
テ戦争犯罪ニ問ハレル様ナ非人道的ナ事ヲ
シテ年ル望ハナイト、皆意外ナ感ニ打タレテ
居ルデアリマス。又何カノ誤リデ若シサウ
云フ事跡ガアツタトシテモ、ソレハ彼ノ本心カ
ラ出タ行爲デハナク、當時ノ苛烈ナル戦闘
ノ餘上級指揮官等ノ指令其ノ他外部的四
圍ノ事情ニ依リ萬己ムラ得ガル事由ニ基
ヅイタモノデアラウト推察致シテ居ルデア
リマス。
茲ニ彼ノ生立ノ家庭ヲ御紹介申上ケ、寛大ナ
ル御處分アラシコトヲ偏ヘニ御願申上ゲル次

第デアリマス。

彼ノ父ハ松下兼精ト謂ヒ農業ヲ営ムモ

ノデアリマスガ福山町長。福山産業組合長

等ノ公職ヲ長年月ニ亘リ勤メ、福山町ノ爲

大イニ盡カシテ下サツタ人デアリマス。資性

温厚篤實至誠ノ人デアリ、我々ノ故郷福

山町ノ柑橘栽培ガ今日ノ様ナ隆盛發展

ヲ見ルニ至ツタハ實ニ此ノ人ノ長年ノ努力

指導ノ賜物デアツタト申シテ過言

デハアリマセン。大正年代ヨリ昭和年代ノ初期

ニ至ル迄ノ間、封建時代ノ舊習墨守ノ農家

經營ヲ資本主義經濟ノ時流ニ合致セシム

ル爲萬難シ排シテ果樹園栽培ニ意ヲ用
ヒ、我々ノ故郷ヲシテ良ク時代ノ進運ニ逆
行セシメズ農村先覺者タル、本分ヲ盡シ
下サツタ大恩人デアリマス。

今マ齡漸ク七拾歳ニ近ク之等ノ公職カ
ラ退イテハ居リマスモノ、猶農ヲ怠レズ敗
戦日本ノ今日、食糧危機突破ノ爲粉骨碎
身増産一途ニ奉公致シテ居ルノデアリマス。
家庭ニ四男五女ヲ擧ゲ之等ノ子供ヲ皆立
派ニ成育セシメマシタル今日、老父母ノミガ獨
リ家ニ残留シ子供等ハ皆故郷ヲ外ニ活躍致
シテ居ルノデアリマスガ父ノ性質ヲ繼承シ學

術品行共ニ優秀、成績ヲ收メ、小學校、中學校
又ソレ以上、上級學校ヘト進學致シマシタ。
殊ニ男子ノ方ハ、兄弟四人全部揃ツテ大學教
育ヲ受ケ、教育家トシテ活躍、ニ男^{「兼文」}
ヲ除キ、長男、三男、四男、三名ガ孰レモ長崎
醫科大學ヲ卒業、長男及三男、兩名ハ既
ニ醫學博士ノ學位ヲ獲得致シテ居リマス。
即チ長男^{「兼知」}ハ現ニ長崎醫科大學精神
科助教授トシテ、戦災ヲ被ツタ學園ノ復興
ニ努力、民主主義日本再建ノ爲中年ノ熱心
情ヲ傾倒シ、三男^{「兼親」}ハ今次大戰ニ應
召陸軍部隊ニ從軍シ、遠ク^{「ニューギニア」}方

面ニ出征中學位論文モ通過致シマシクが不幸「マラリア」ノ冒ス處トナリ可^{アタラ}惜若イ新進ノ醫學者トシテノ活躍ヲ期待サレ乍ラ、ニ拾八歳ノ短生涯ヲ閉ヂタノデアリマス。末弟^{カネ}兼久ハ此ノ父兄等ノ感化ヲ受ケ田舎ニハ珍ラシク科學的ナ家庭雰囲気ノ中ニ育チ、其ノ性質ハ極メテ温順郷里ノ中學校 鹿児島市、第七高等學校ヲ經テ長崎醫科大學ニ進ミ、御承知、如ク今次戦争ノ真只中ニ三番ノ優秀ナル成績ヲ以テ卒業シ迎ヘタノデアリマス。學園ヲ出ルト男子ト云フ男子ハ總テ戰場ニ送ラレネバナラ

ナカツタ當時ノ一般情勢カラ見テ戦争ヲ好マナイ作ラモ軍醫志願ヲ爲サバルヲ得ナカツタ経緯ニ付テハ賢明ナル裁判官各位ニ於テ既ニ當然御推察賜ツテ居ルモノト堅ク信ジテ疑ヒマセン。彼ハ決シテ職業軍人デハナカツタデアリマス。

從軍中ノ兼久ノ行動ニ付テハ不幸ニシテ未ダ之ヲ聞知スルノ機ニ恵マレナカツタノデアリマスガ、前述ノ如ク彼ノ平素ノ性格其ノ他カラ推シテ軍人トシテ否現代ノ文化人トシテハ本分ニ悖ルガ如キ行爲ガ彼ニアツタトハ信ゼラレマセン。

田舎ノ家庭ニアツテハ 毎日老父母が彼ノ歸
還ヲ待チ詫ビテ居マス。今次戦争ハ
彼ノ一家「松下」家ニハ實ニ數々ノ悲シミヲ
齎^{もたら}シテ居マス。前述ノ如ク三男^{カネ}兼親^{カネ}が
戦死シタバカリデナク、末女「イソ子」ハ北
ニ於テ終戦後ノ無秩序ノ混亂ノ爲新婚日
モ浅イ夫ヲセクシタバカリデナク、自分自ラモ亦
病死シテ了ヒマシタ。長男^{カネ}兼知^{カネ}ハ原子
爆彈ノ爲危ク一命ヲ落ス處、老父、自分
ヲ忘レタ看護ニ依リ漸ク生命ヲ保持スル
コトが出来マシタ。^{カネ}兼久^{カネ}、復員ヲ迎ヘ
一安堵致シテ居タノモ束の間、貴軍カラノ

召喚ヲ受ケ 全ク晴天ノ霹靂 一家ハ擧
ゲテ悲嘆ノ涙ニカキクレテ 居リマス。

我々ハ此ノ老父母ノ悲シミヲ傍觀スルニ忍
ビズ。貴軍ノ御慈悲ニ總リ此ノ力ナリト老
父ノ悲シミヲ輕減シ度イ一念カラ。茲ニ御明
察シ仰キおい爲 拙劣ヲモ 顧ミズ筆ヲ執
リマシタ。

何卒諸般ノ事情ヲ御汲ミ取下サレ兼
久ニ對シ彼ノ老父ニ免ジテ寛大ナル御
處分賜ランコトヲ 御願ヒ致ス次第デアリ
マス。

御寛大ナル處分ニ依リ、若シ彼が家庭ノ人

ニ復歸 スルコトガ叶ヒマシタナラバ、貴軍ノ偉大ナル慈悲心ニ感謝感激シツ、本來ノ面目ニ立戻リ 民主日本、新建設ヘト 残生涯、全部ヲ 献ゲ盡スコトデアリマセウ。

彼、斯ウシタ 苦シイ 體驗カラ生レタ 日常ノ行爲ハ、延テ 我郷土 福山町、若イ後輩ヲモ動カシ、再建途上ニアル 新日本、黎明ヲ告グル 警鐘トモ 郷音クコトデアリマセウ。

重ネテ申上ゲマスガ、彼ハ職業軍人デナカッタバカリデナク、長崎醫科大學在學中ハ長崎市在住元英國領事、J. I. ウォン、氏及ビ貴國出身、デシラー、氏ト 長男、兼知、ヲ

シテ知り親交アツタノミナラス、其ノ他同市在
住外人諸氏トモ交リ、國際的教養及ビ理解
ノ點ニ於テ他ノ日本知識階級人ニ毫モ
遜色ヲ見ナイ立派ナ文化人デアリマス。
誤ッテ舊日本ノ指導者達ニヨリ頑迷ナ
軍國主義的膨脹政策ガ採ラレサヘシナカツ
タス様ナ今日ノ悲痛極マル思ハスルコトモ
無カツタラウト残念デタマリマセン。
古クカラ後悔先ニ立タズトハ申シマスモノハ戰
時日本ノ一臣民トシテ働イテ參リマシタ我々
ハ今更ナラ過去ノ迷サカラ醒メ貴國初
メ隣接各國ノ人々ニ多大ノ御迷惑ヲ御掛

ケシタコトヲ眞ニ申譯無ク思ヒ、日夜反省ヲ
怠ラザル一方、眞ノ世界ノ平和實現ノ爲及バ
ズ作ラ努カシ、明朝日本ノ一臣民タル一生ヲ終
リ度イト念願致シテ居ルモノデアリマス。

敗戦日本ノ苦悶未ダ消エヤラヌ生々シイ記
憶ノ今日、年齒三拾歳ニモ及バナイ彼、兼久
ニ對シ何卒自由ヲ賜リ、大乗的見地カラ破
格ノ寛大ナル御處分アラシコトヲ切ニ念願シ
テ止ミマセン。

何卒我々此ノ微衷ヲ御波ミ取下サレ度、茲
ニ幾重ニモ御願ヒ申上ゲマス。

昭和二十一年六月十二日

(以上)

右數願者

厚地政信

裁列斤

7

23.7 (15)

528

0687

歎願書

謹啓

平生我犯容疑者として召喚され居る元海
車々醫大尉杉下素久君に因りて歎願書と爲
候

小生現在七父の邊業たる味噌、酢、醸造業
相嘗所居候者にして在候、七父は在なる所
當所の産業組合に書記として又理事として相勤
め候事有るが故に降り組合長理事は古杉下
素久君の嚴父杉下素精翁に在り候しき、
其の時期は昭和七年より昭和八年止に
して所謂農村不況の頃より大東亜戦争
初期の頃迄にして農業會と改組に相成り

歩にあらざる精進もいふも退職せしものにて
 小生も亦精進とは致初は組合長書記
 の関係に有之候も後にはいはしむ理
 事に推せられ事務理事に望せられ
 精進も精進とは甲に理事者としての地位
 には候いしも翁は言、壮年時代より二宮尊
 徳様計より進歩者にと常に二宮様計
 を當所内に具現せべく努力され産業組合
 の創立者にと又村長たりし事、二期以て
 町の進歩発展に努力され常にありは養新
 に從事され其の二所歩の村橋園は當所
 知らるる村橋業にと自己経営と共により
 特殊農業として奨励され休不現在に至は

本縣不有存なる村橋産地と相違等卒先
躬行能を策に重れ且資性温厚に
温款以人に接し公其の爲には自己を不顧
而も子女の教育には産を傾け三子を醫
科大學迄一子と文理科大學に學ばし
ある等其の人格誠見の爲通なること
等は但會長理事とてその子に對て寧ろ市
に師とて交り來り候
現在に於ても所の長老とて所の健全なる投
展を新念され常に其の勞を不惜尚國民
學校後援會長とて諸君の如働を見
たりる次第にも在候、いし産業組合
勤務期間中は初不兼久長ノ幼中時代

より其時成に及ぶは事一の都合は
 命の私定にて打合せある事一教次有と
 月原の成長ぶりを見合ひし候
 命の訓育を受けて、後には山をなす子
 然る性情を長び居り候ひき、
 又曰ふは社会正義親念強く山義人道
 を重んずる人なることを証する事案を
 此の機会に申し述べ候
 時は昭和十八年四月、富岡の農家の某五郎生
 産奨励の席に、右部、佐野、と伴ひて先
 進産地視察に出向し、折旅程偶々曰君
 大學在學中、是より長崎市に及ぶ候