C O P Y

HEADQUARTERS EIGHTH ARMY

United States Army

Office of Staff Judge Advocate

Yokohama, Japan

20 September 1946

Case No. 37

UNITED STATES OF AMERICAN VS IWAO KAWASAKI

Review of the Staff Judge Advocate

1. The attached record of trial of Iwao Kawasaki at Yokohama, Japan from 3 June 1946 to 10 June 1946, by a Military Commission appointed by paragraph 38, Special Orders No. 138, Headquarters Eighth Army, United States Army, dated 29 May 1946, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal data concerning accused

NAME: Iwao Kawasaki.

AGE: Twenty-eight (28).

RESIDENCE: Previously in Hiroshima.

MARITAL STATUS: Married.

RELATIVES: Father, Mother and sister dead.

EDUCATION: Thirteen years schooling.

VOCATION: Bank employee.

MILITARY CAREER: Entered Japanese Army 1 December 1940, served in Transportation Corps, in China, Nanking, Shanghai and Hankow; then with transportation unit at Hiroshima from December 1943 to 1 February 1944. He served at the Fukuoka prisoner of war District Headquarters 1 to 13 February 1944 and thereafter until the end of the war at Number 3 Branch Camp.

2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency and Sentence:

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| --- | --- | --- | --- |
| Charges and Specifications | Pleas | Findings | Legally Sustained |
| Charge: Between 1 February 1944 and 1 September 1945 while a Sergeant in Imperial Army of Japan, at PW Camp No. 3, Kokura, Fukuoka, Japan, accused did, willfully and unlawfully commit cruel, inhuman and brutal acts, atrocities and other offenses against certain American and Allied PW's, in violation of the Laws and Customs of War. | NG | G | Yes |

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| --- | --- | --- | --- |
| Charges and Specifications | Pleas | Findings | Legally Sustained |
| Sp 1: About 14 May 1944 accused did willfully and unlawfully brutally mistreat and torture William O. cash, Thomas B. Armitage and Munroe Dave Woodall, American PW's by beating and kicking them, by forcing water into their mouths and noses and by pressing lighted cigarettes against their bodies. | NG | G | Yes |
| Sp 2: About November 1944, accused did willfully and unlawfully abuse and torture William C. Mahoney an American PW by throwing him into a pit of water during cold weather and by forcing him to kneel, while naked with a pole behind his knees. | NG | G | Yes |
| Sp 3: About April 1945 accused did willfully and unlawfully abuse, mistreat, torture and contribute to the death of ray S. Wheeler, an American PW, by beating him and exposing him out of doors to cold weather without clothing | NG | Guilty, except the words "and contribute to the death of". Of the excepted words, Not guilty | Yes |
| Sp 4: About July 1945, accused did willfully and unlawfully abuse and beat James Edward Marting, and American PW, by striking him with a club after placing him in a water reservoir. | NG | NG |  |
| Sp 5: Between 1 February 1944 and 1 September 1945, accused did willfully and unlawfully abuse, mistreat, beat and torture various American and Allied PW's. | NG | G | Yes |

Sentence Imposed: Confinement at hard labor for twenty-five (25) years.

Maximum Legal Punishment: Death.

3. Summary of Evidence:

a. For the Prosecution:

By an exchange of correspondence between the United States and Japan through the Swiss legation, the Japanese Government recognized the provisions set forth in the Geneva Prisoner of War Convention and the Geneva Red Cross Convention, both of July 27, 1929, and declared it would follow them with necessary alterations as to names, offices, and the like (Ex. 1).

As to Specification 2: The affidavit of prisoner of war Mahoney states that Mahoney was thrown into a water pit and forced to stay there for about an hour in cold weather during November 1944. The Japanese then put a bamboo pole in back of his knees and he was forced to kneel naked for two hours in the cold. Four days later he was hospitalized for 45 days. He identified one of these Japanese as Kowasaki (phonetic), about 5’5” tall, weighed about 135-140 lbs., had close cropped hair, wore thin, horn-rimmed glasses, no unusual characteristics, had regular features and was not bad looking, could speak some English and seemed to be fairly well educated (Ex 6). Except for the glasses this description of the accused tallies closely with that given in the prepared statement of prisoner of war Lieutenant Winnifred O. Dorris (Ex. 19). The Japanese camp commander, Major Rikitake, testified that the accused “hardly ever wore glasses”. (R.56).

As to Specification 3: A second affidavit of Prisoner of War Mahoney charges that Sergeant ray Wheeler, an American PW was beaten “terrifically” by “Kawasake (phonetic) in front of the guardhouse, for smoking after hours. He was beaten a number of times with a solid bamboo pole about six feet long and as round as a baseball bat for about half an hour. He was beaten all over the body, and then made to kneel naked for about two hours outside in cold temperature. Two days later he had pneumonia and died shortly thereafter (Ex. 12). Mahoney fixes the time of this incident in January 1945, others fix it in March or April (Ex. 7, 9, 10, 11).

As to Specification 5: Prisoner of war Lieutenant Colonel Winnifred O. Dorris signed a verified statement on 26 September 1945, prepared from personal notes kept by him during his imprisonment at Fukuoka Camp No. 3. In this he names Sergeant I. Kawasaki and one other as “responsible for the beatings and tortures committed in the camp”. He refers to him as a perpetrator of the beatings, mistreatment, etc., and described him and his actions as follows:

“I KAWASAKI: Sergeant, saw action in China but was returned to Japan due to physical disabilities, in charge of pay section and commissary supplies, 5’8” tall, 145 pounds, 35 years old, medium built, dark brown eyes, no mustache, no glasses, stammered slightly in speaking, round face and chin, slightly round shoulders, no scars or amputations, erect, medium gait, military bearing and walked in straight normal manner, spoke some English, spoke Chinese fluently. His home was in Hiroshima and had been a bank clerk in that city previous to his military service. Married and wife worked with the Japanese Red Cross.”.

“The men were beaten with sticks, clubs and rifle butts for no reason at all. This was a daily affair. In some cases, men were beaten for violating camp orders; such as, getting caught smoking out of hours. The guard would take the men up to the guardhouse, beat them up with their fists, stripped them of their clothes and then threw them outside in a water tank. This usually happened in winter time. After about two or three hours of this kind of torture, they would be sent back to the barracks and in the barracks the men would most always be given some form of punishment; such as, in being unable to get the next issue of cigarettes”.

His affidavit of 18 February 1946 includes the following statement:

“Sergeant I. KAWASAKI, pay sergeant; Sergeant T ARATA, mess sergeant; and Sergeant M. TERADA, medical sergeant; also took their turns as Officer of the day. While they were on duty or while they were just walking around the camp, they would each beat prisoners for not saluting, for improper dress, for not working hard enough around the camp, for smoking at a time not permitted or for any other reason that might occur to them. These beatings were usually administered by striking with their hands or kicking with their feet, but clubs were used at times. This paragraph applies to a somewhat more limited extent to Sub. Lt. HOSHIKO, when he was Officer of the day, and to Y. NAKAMURA, Interpreter. (Ex. 20).

The affidavit of prisoner of war Keefe states that the Japanese pay sergeant Kowalsaki (Phonetic) commonly slapped prisoners of war for such things such as not counting off properly while in rank (Ex. 14). The affidavit of prisoner of war McIntyre states that Sergeant Kawasakae was responsible for beatings of prisoners of war for minor offenses. He beat prisoners for such offenses as pooling blankets and sleeping together in cold weather, gambling, and being unable to recite the orders of the day in Japanese. He was described as being about 5’4”, 145 pounds, age 28, very neat, liked music and could play a good many instruments (Ex. 15, 16). Prisoners of War Ouilette described Kalisaki as having charge of issuing cigarettes and cookies at the camp. He often struck Ouilette and other prisoners in the face with his hands (Ex. 17). Numerous beatings are also referred to in Exhibits 18 and 20.

b. For the Defense:

The accused took the stand and testified in his own behalf under oath. He was a Japanese Army finance sergeant (R. 11), 28 years of age. His home was in Hiroshima. He had 13 years of schooling (R 111), he was employed in a bank prior to entering the army (R. 112). He was assigned to Fukuoka Branch Camp No 3 from 13 February 1944 to end of the war (R. 12, 112). His duties consisted of issuing supplies to the officers among the prisoners of war, paymaster for the prisoner of war non-commissioned officers, in charge of the prisoner of war canteen and also took charge and supervised the daily needs of the prisoners of war, also was in charge and led the social part of the prisoners of war and also aided in the church services (R. 12, 138). He issued cookies and cigarettes to the prisoners of War (R. 38, 140). He was appointed duty NCO at times. He had some supervisory work of the guards in personnel matters. Roll call of the prisoners was held twice a day, in the morning and afternoon (R. 13). He had some knowledge of English (R 133). He testified he never wore glasses no had gold teeth (R. 14).

The accused denied any cruelties except three slappings (R. 122, 123, 142, 143, 150, 165) one Indian, one Dutchman and one American. The names of these victims were not given. He stated that the slapping and striking is used as an admonition in the Japanese Army (R. 165). In the camp minor infractions were dealt with by admonitions (R. 167, 168).

Major Rikitake, Japanese Camp Commander testified for the accused as well as to identify the accused on behalf of the prosecution (R. 42). He described the conscientious manner in which the accused performed his duties including the supervision of recreation among the prisoners of war and the procurement of supplies. He and his parents provided many Christmas presents for the prisoners. He never scolded the accused nor did he receive any complaints about him from the prisoners (R. 47-51).

Tadso Watanabe testified that he was stationed at the Fukuoka Main Prisoner of War camp and visited Branch Camp No. 3 about twice a year where he saw the accused. The accused visited him about once in two months. The witness told of the efficient manner in which the accused handled his job and the general nature of his activities in organizing musical programs and securing food and other supplies (R. 74-79).

Keizaburo Ogami, a medical doctor testified with reference to conditions that predispose toward pneumonia (R. 80, 81). He further testified about the identifying features of the accused. He did not believe the accused would be guilty of the mistreatment with which he is charged (R. 83). He told of the efforts made by the accused to care for the needs of the prisoners of war (R. 87-89). It appears to be understood that any atrocity which might be committed in a prisoner of war camp would occur after the commandant and the officers went home (R. 90, 90, 98).

Seizo Nagakura, convicted war criminal, a corporal in the camp, stated that he never saw the accused commit any of the atrocities charged (R. 92). However, in Sugamo Prison, the accused admitted slapping some prisoners (R. 92).

The defense submitted several statements purported to be signed by prisoners of war at the camp. They refer to the efforts of the accused to raise the moral of the prisoners of war in the camp (Ex. f, g, h, I, j). However all are dated prior to the liberation of the prisoners on 17 September 1945 (Ex. 20). One statement indicates it was written by request, but whether these statements were signed under duress is not indicated (Ex. G). This statement adds that the accused made an effort “to alleviate to some small degree the lot of the prisoners of war in this camp.” This recognizes that the lot of the prisoners of war in the camp was somewhat distressing.

4. Opinion:

The record is sufficient to legally sustain the findings of the Commission and the sentence imposed. The Commission was constituted by proper authority and had jurisdiction over the accused and the offenses charged. From the evidence the guilt of the accused is established. The records fail to disclose any error injuriously affecting the substantial rights of the accused. The evidence supports the findings. There was no evidence that the accused was not sane at the time the alleged acts were committed or at the time of trial. The accused was given a fair trial, was ably defended, produced witnesses on his own behalf and took the stand himself after being warned of his rights. The proof supported the findings beyond a reasonable doubt.

5. Recommendation:

No letters of clemency have been submitted on behalf of the accused.

The Commission sentenced the accused to confinement at hard labor for twenty-five years. The sentence is legal and is supported by the evidence.

The accused was the perpetrator of numerous beatings and other atrocities. These outweigh considerations of clemency for the accused. It is recommended that clemency be denied and that the sentence be approved. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

6. Action:

A form of action designed to carry this recommendation into effect is attached hereto.

/s/ Cyril D. Hill

CYRIL D. HILL

Lt. Colonel, CAC

Assistant Staff Judge Advocate

I CONCUR, except as to the length of the confinement provided in the sentence. The accused was found guilty of only three of the five specifications of which he was charged. No deaths or permanent injuries are included.

A form of action approving only 15 years of the 25 years confinement adjudged is attached hereto for your approval.

/s/ Allan R. Browne

ALLAN R. BROWNE

Lt. Colonel, JAGD

Army Judge Advocate

HEADQUARTERS EIGHTH ARMY

United States Army

APO 343

Yokohama, Japan

In the foregoing case of Iwao Kawasaki, only so much of the sentence as provides for confinement at hard labor for a period of fifteen (15) years is approved and will be executed. The Sugamo Prison, Tokyo, Honshu, Japan, or elsewhere as the Supreme Commander for the Allied Powers, or other proper authority may direct is designated as the place of confinement.

R. L. EICHELBERGER

Lieutenant General, U.S. Army

Commanding

3 October 1946

I certify that when I explained the rights of the accused to Iwao Kawasaki, I told him he had the right to remain silent, in addition to the other matters shown in this record in connection with that warning.

/s/ Glenn I. Epperson

GLENN I. EPPERSON

Lt. Col., CAV.