C O P Y

HEADQUARTERS EIGHTH ARMY

United States Army

Office of the Staff Judge Advocate

APO 343

Yokohama, Japan

2 August, 1946

Case No. 30

UNITED STATES OF AMERICA VS YOSHIYUKI IKEDA,

TADASHI TAKANO, and

YOSHIKA YAGI

REVIEW OF THE STAFF JUDGE ADVOCATE

1. The attached record of the trial by Military Commission appointed by paragraph 15, S. O. 117, Headquarters Eighth Army, dated 6 May 1946 having been referred to the Staff Judge Advocate for review, this review of the record with an opinion and recommendation relating thereto is submitted.

PERSONAL DATA CONCERNING ACCUSED

a. Yoshiyuki Ikeda

|  |  |  |
| --- | --- | --- |
| Age: |  | 31 |
| Residence: |  | Asahi-machi, Nichome, Moji |
| Marital Status: |  | Married |
| Other relations: |  | Not Shown |
| Education: |  | Not Shown |
| Vocation: |  | Civilian employee, Japanese Army Superior Private, Japanese Army, for an undisclosed period  |
| Sentence: |  | 15 years confinement |

b. Tadashi Takano

|  |  |  |
| --- | --- | --- |
| Age: |  | 35 |
| Residence: |  | 2095 Manakaichi Kitazato Agusoimachi, Asoogun, Kumamoto Prefecture. |
| Marital Status: |  | Married, two children |
| Other relations: |  | Not shown |
| Education: |  | Not shown |
| Vocation: |  | Civilian employee, Japanese Army Japanese Army-rank and length of service not shown |
| Sentence: |  | 15 years confinement |

c. Yoshika Yagi

|  |  |  |
| --- | --- | --- |
| Age: |  | Not shown |
| Residence: |  | Shoji-Higashi-Dani, Moji-shi |
| Marital Status: |  | Married |
| Other relations: |  | Not shown |
| Education: |  | Not shown |
| Vocation: |  | Civilian employee, Japanese Army |
| Service: |  | Japanese Army, 1 April 1936 to 25 May 1945 |

 2. Synopsis of the Charges, Specifications, Pleas, Findings, Legal Sufficiency and Sentences:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Charges and Specifications: |  | Pleas | Findings | Sustained |
| a. Yoshiyuki Ikeda: |  |  |  |  |
| Charge: Between 1 August 1944 and 30 June 1945 at Fukuoka POW Camp No. 4, Moji, Kyushu, Japan accused, a civilian employee of the Japanese Army, committed cruel and inhuman acts and other offenses against Allied POWs in violation of the Laws of War. |  | NG | G | Yes |
| Sp. 1: In April 1945 beat, clubbed and confined in the guardhouse without proper medical care Sergeant James Kinder and Seaman Walter Cole, American POWs. |  | NG | G, with an exception | Yes |
|  |  |  |  |  |
| Sp 2: In May 1945, beat Sergeant William E. Braye, an American POW, with a saber and thereafter forced him to stand at attention overnight. |  | NG | G | Yes |
|  |  |  |  |  |
| Sp 3: Between 7 September 1944 and 30 June 1945, kicked and clubbed Corporal Paul Inzer, an American POW. |  | NG | G | Yes |
|  |  |  |  |  |
| b. Tadashi Takano: |  |  |  |  |
| Charge: Between 1 June 1943 and 1 September, 1945 at Fukuoka POW Camp No. 4, Moji, Kyushu, Japan, accused, a civilian employee of the Japanese Army, committed cruel and inhuman acts and other offenses against Allied POWs, in violation of the Laws of War. |  | NG | G | Yes |
|  |  |  |  |  |
| Sp 1: In November 1944 severely clubbed Sergeant James Kinder and Seaman Walter Cole, American POWs. |  | NG | G | Yes |
|  |  |  |  |  |
| Sp 2: On 25 November 1944 severely beat Corporal Ernest Tavlian and 19 other Allied POWs. |  | NG | NG |  |
|  |  |  |  |  |
| Sp 3: In March 1945 severely clubbed a work detail of allied POWs including Sergeant Oscar Upshaw. |  | NG | Ng |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Charges and Specifications: |  | Pleas | Findings | Sustained |
| Sp. 4: In July 1945 used Jiu-jitsu on Corporal Arthur Louis, an American POW, for 3 weeks. |  | NG | NG |  |
|  |  |  |  |  |
| Sp 5: Between 1 June 1943 and 1 September 1945 brutally beat and mistreated numerous other Allied POWs. |  | NG | G | Yes |
|  |  |  |  |  |
| c. Yoshika Yagi: |  |  |  |  |
| Charge: Between 1 June 1943 and 31 August 1945 at Fukuoka Area Prisoner of War Camp No. 4, Moji, Kyushu, Japan, accused, a civilian employee of the Japanese Army, committed cruel and inhuman acts and other atrocities against Allied POWs in violation of the Laws of War. |  | NG | G | Yes |
|  |  |  |  |  |
| Sp 1: In March 1945 beat Corporal Arthur R. Converse with an iron poker. |  | NG | G | Yes |
|  |  |  |  |  |
| Sp 2: On 15 July 1945 beat Private First Class Dale Moeder with a chain, an iron bar and a piece of pipe. |  |  | G, with an exception |  |
|  |  |  |  |  |
| Sp 3: On 1 May 1945, with other guards, beat Sergeant Joseph Bush and 19 other Allied POWs with a steel rod. |  | NG | G | Y |
|  |  |  |  |  |
| Sp 4: Between 1 June 1943 and 31 August 1945, beat and mistreated Corporal Paul Inzer and numerous other Allied POWs, in violation of the Laws of War. |  | NG | G | Yes |

 3. The record of trial in this case comes to this headquarters for an appellate review, the primary function of which is to assure that the accused have been accorded the rights and protection to which they are entitled as war criminals on trial before a military commission.

 4. Evidence: Briefly summarized, the competent evidence as to each of the accused is to the following effect:

 a. Yoshiyuki Ikeda

 As to Specification 1: In April 1945, Sergeant James W. Kinder and Seaman Walter W. Cole, after stolen sugar was found in their possession, were beaten and clubbed for forty-five minutes by a group of seven Japanese guards headed by accused. After being beaten into unconsciousness, the two Americans were locked in the camp guardhouse until the following morning (Ex. 8).

 As to Specification 2: In May 1945 Sergeant William E. Braye left a work detail to obtain medical aid after a falling timber fractured his shoulder and collarbone. He encountered accused, who berated him for leaving his work and beat him for five minutes with a saber and scabbard before taking him to the camp guardhouse where he was forced to stand at attention overnight (Ex. 9).

 As to Specification 3: Corporal Paul G. Inzer, and American who had stolen food while on work detail, was beaten with a club for half an hour by accused and another Japanese guard, losing consciousness twice but being revived and the beating continued. After breaking one club over the American’s head, the two Japanese kicked him and trampled his hands under their hobnailed boots. Inzer bore scars and bruises for months afterward as a result of this mistreatment (Ex. 10).

 As to Specification 4: An unnamed prisoner who smuggled stolen sugar into the camp was beaten into unconsciousness by accused and other camp guards, subsequently revived with a fire extinguisher and the beating resumed until he again lapsed into unconsciousness (Ex. 7).

 The accused, Ikeda, after being duly advised of his rights as a witness (R. 51), elected to testify in substance that he was employed as a civilian guard at Camp No. 4 from 17 November 1943 to 10 August 1945 (R. 51). In November 1944, while on guard duty, he observed two prisoners remove ten pounds of sugar from a hiding place in the ceiling of the camp kitchen (R. 52). He reported this incident to the duty non-commissioned officer on the following day, but did not strike either of the prisoners or observe them struck by other guards (R. 53). Accused struck some prisoners on the buttocks with his palm and a short bamboo stick “for the purpose of educating them” after the guards had been instructed by the camp commander to strike the prisoners in order to “improve their efficiency” (R. 54). He recalls striking Corporal Paul G. Inzer with a bamboo stick after the American stole some food, but did not knock him to the ground or otherwise mistreat him (R. 56). On another occasion he hit several prisoners with a bamboo stick, one of whom later required medical treatment, after the camp commander had ordered all the prisoners to be beaten (R. 56, 58). Accused saw the guard Takano strike several “disobedient” prisoners with his palm but he observed Yagi slap only one (R. 59, 61).

 Two Japanese witnesses testified to the effect that on four occasions they briefly observed prisoners of war in the company of accused and that he did not beat or mistreat them (R. 62-68). Two prisoners came to their home searing for accused after the Japanese surrender and, although the witnesses could not clearly understand their intentions due to language difficulties, they received the impression that the prisoners wished to thank accused for his kind treatment of them during their confinement (R. 62-68).

 b. Tadashi Takano:

 As to Specification 1: In November 1944 accused, with other Japanese guards, at the direction of the Camp Commander beat and clubbed Sergeant James W. Kinder and Seaman Walter C. Cole for an hour with a heavy club and a bamboo pole (Ex. 2). The beating, which was ordered because of the prisoners used sugar in their tea in violation of camp regulations, left the men with raw and bleeding backs (Ex.2).

 As to Specification 5: On 25 November 1944 accused, who was intoxicated as well as incensed over current Allied military successes, forced a work detail of twenty men to march past him single-file while he struck each a heavy blow with a four-inch thick bamboo club (Ex. 3). In March 1944, while again drunk, he beat and clubbed a work detail of several Americans, including Sergeant Oscar Upshaw, for twenty minutes, each of the men being knocked on the ground by the force of the blows and the beating continued while they were prostrated (Ex. 4). During July 1945 accused practiced jiu-jitsu twice daily for three weeks on Corporal Arthur C. Louis, and American, bruising him severely and injuring his back and right leg to such an extent that he walked with a limp for a considerable period of time (Ex. 5). On another occasion, accused and other guards beat a group of twenty-six prisoners with shovels and pick handles because one American had misplaced a urinal bucket at the site of a work detail (Ex. 6).

 The accused Takano, after being duly advised of his rights as a witness (R. 29), elected to testify to the effect that he was employed as a civilian guard at Camp No. 4 from 14 July 1943 to 15 August 1945 (R. 30). He was ordered by the camp commander in May 1944 to beat the Americans Kinder and Cole, who were charged with the theft of some sugar (R.30). In the presence of the commander and prison guards, accused therefore lightly struck the two prisoners on the buttocks four times each with a small stick (R. 30, 31). On another occasion he was ordered by his commanding officer to beat four or five prisoners, one of whom had improperly used a urinal bucket (R. 34). He struck each of the men lightly several times with the flat side of a shovel while the camp commander watched (R. 34). He does not recall the prisoners named or the incidents described in the remainder of the prosecution case against him (R. 31, 32), although he admits that he was drunk in camp on several occasions and is unable to remember events that transpired while in the condition (R. 36, 37).

 Three Japanese civilians who resided near the working place of the prisoner of war work detail testified in substance that in February and July 1945 accused brought several prisoners to their homes for first aid treatment (R. 38, 39, 43). They frequently gave food, fruit and cigarettes to accused, who distributed them to the prisoners (R. 40, 41, 43, 49). The witnesses observed no mistreatment of the prisoners on the work detail and they seemed happy and contented (R. 38, 41, 42, 49).

 c. Yoshika Yagi:

 As to Specification 1: Corporal Arthur E. Converse was badly bruised and hospitalized for three days in March 1945 following a beating about the head with an iron bar administered by the accused who had become incensed at the inability of the Americans to comprehend an order given in Japanese (Ex. 11).

 As to Specification 2: On 15 July 1945 Private First Class Dale E. Moeder was beaten for half an hour with an iron chain and a length of pipe by accused after he had gone to the latrine without first obtaining permission (Ex. 12). The American, who was knocked down several times during the beating, suffered a severe back injury that incapacitated him for ten days (Ex. 12). Stop top of page 6.

 As to Specification 3: Sergeant Joseph J. Bush and nineteen other American and Dutch prisoners of war were struck from five to seven times each with a steel rod by accused on 1 May 1945 because one of the prisoners whom he had directed to hold his coat had left the garment unwatched for a short time (ex. 13). One prisoner was unable to walk for a month as a result of the beating (ex. 13).

 As to Specification 4: In 1944 or 1945 accused lined up a work detail of thirty men, including Corporal Paul G. Inzer, and beat each of them with an iron bar six feet in length until they dropped to the ground (ex. 10). On another occasion he beat and clubbed two Americans, one of whom had smuggled sugar into the camp in violation of camp regulations (Ex. 7).

 The accused Yagi, after being duly advised of his rights as a witness, elected to testify in substance that he served as a civilian guard at Camp No. 4 from June 1943 to September 1945 (R. 68). He struck one American, apparently Corporal Arthur R. Converse, three times on the head and shoulders with an iron bar after Converse saluted improperly and insisted that he could not understand accused’s attempts to teach him a proper salute (R. 69). By order of the camp commander the prisoners were required to salute guards who had been ordered to strike the prisoners when a breach of such regulations occurred (R. 69, 70). Accused recalls striking another prisoner with a bamboo pole after he left accused’s coat at the place where a work detail was operating, in violation of an instruction to keep the coat in his possession (R. 71). He slapped five prisoners who failed to line up for roll call (R. 73), and hit another who was found smoking in the camp hospital, with a bamboo pole at the order of and in the presence of the camp commander (R. 73). Four other prisoners who had stolen food were beaten and clubbed by accused (R. 74, 76, 78 79).

Both accused and his wife, who was also called as a witness, testified that prisoners of war were entertained by them in their home on numerous occasions, beer, tea and food being served to them. Ten Americans and one Englishman were present on one such occasion following the surrender (R. 73, 74, 78, 82).

A radioed summary of the affidavit of Master Sergeant Harold T. Irving, former American prisoner of war confined at camp No. 4, was admitted in evidence (ex. E). The affiant described accused as a cheerful and pleasant man, solicitous of the welfare of the prisoners, who only struck those guilty of theft or violations. He did not force the prisoners to work hard and those who where in poor health were permitted to hide while on work details. Accused informed the prisoners of the camp commander’s order to beat them frequently but he did not carry out this order (Ex. C) 2.

5. Opinion:

 The three accused, who served as civilian guards in the employ of the Japanese Army at Fukuoka Prisoner of War Camp No. 4 from 1943 until the Japanese surrender, stand convicted of the brutal beating, clubbing and other mistreatment of numerous Allied prisoners of war in violation of the Laws of War.

 Prosecution evidence shows the accused Ikeda to have been connected with four specific instances of brutality involving five American prisoners of war. In the course of one particularly inhumane incident, he and another Japanese guard severely clubbed Corporal Inzer, an American, for half an hour, after which they kicked him and trampled his hands with hobnailed boots. One club was broken over Inzer’s head and he lost consciousness twice during the beating. On another occasion, Ikeda beat Sergeant William P. Braye because the American had left his work detail to obtain medical attention for a fractured shoulder and collarbone. Other instances of mistreatment involved the prolonged beating and clubbing of prisoners for minor violations of camp regulations. In his testimony, Ikeda admits striking many prisoners with his palm and a bamboo stick, but asserts the he did so in furtherance of an instruction from the camp commander to the effect that the prisoners were to be beaten to “improve their efficiency”. This assertion, even if believed, does not constitute a valid defense to the offenses proven, but presents only a matter to be considered in mitigation of punishment. The commission apparently disbelieved accused’s testimony in this regard and, in view of the particularly vicious nature of the beatings administered by him, the findings of guilty were completely justified.

 Accused Takano is convicted of the mistreatment of at least twenty-seven prisoners of war in his own right and participation with other guards in the mass beating with shovels and pick handles of twenty-six others. On one occasion while intoxicated he clubbed a work detail of several Americans for twenty minutes, knocking them to the ground and continuing the beating while they lay prostrate. Twenty more prisoners were lined up and beaten with a four inch club on another occasion, while he seriously injured another by practicing jiu-jitsu on him twice daily for three weeks. In his testimony Takano acknowledged beating six of seven Americans at the order and in the presence of the camp commander. He denies participation in virtually all the incidents alleged in the specifications but admits being frequently drunk in camp, and is unable to recall events that may have occurred while in that condition. Convincing prosecution testimony connecting him with numerous instances of brutality and mistreatment render inappropriate any disturbance of the guilty findings.

 The accused Yagi is shown by prosecution evidence to have beaten fifty-four American and Dutch prisoners of war with iron bars, chains and clubs. Twenty of them were struck several times each with a steel rod because one prisoner neglected to keep accused’s coat in his possession after being ordered to do so. Thirty others were lined up and beaten to the ground with an iron bar six feet in length for no apparent reason. Others were severely clubbed because they went to latrines without permission or because of their inability to understand orders given in Japanese. Three prisoners suffered severe injuries and were hospitalized or incapacitated as a result of mistreatment by accused. In testifying, Yagi admits striking twelve prisoners with his palm, and iron bar and a bamboo club, one of the beatings having been administered at the order of the camp commander. Both accused and his wife relate instances when prisoners were entertained at their home, particularly after the surrender, and given beer, cigarettes and food. An American, formerly a prisoner of war, in a radioed affidavit summary, depicts Yagi as a pleasant individual who treated prisoners with kindness and leniency. Prosecution evidence attributing the most atrocious incident described in the record to Yagi, together with his admission of several unjustified brutal beatings, however, amply support his conviction on the offenses alleged in the Charge and Specifications.

 The findings were proper, the sentences legal and appropriate to the offenses, and no errors are found which injuriously affect the substantial rights of any accused.

6. Recommendation:

 It is accordingly recommended that the sentence of fifteen years be approved and ordered executed. Three forms of action designed to carry into effect the foregoing recommendation are hereto attached for your consideration.

/ s / James A. Byrum.

 JAMES A. BYRUM.

 1st Lieutenant, J.A.G.D.

Assistant Staff Judge Advocate

I CONCUR:

/ s / Allan R. Browne

 ALLAN R. BROWNE

 Lt. Colonel, J.A.G.D.

 Staff Judge Advocate

C O P Y

HEADQUARTERS EIGHTH ARMY

United States Army

APO 343

Yokohama, Japan

August 1946

In the foregoing case of Yoshiyuki Ikeda, the sentence is approved and will be duly executed. The Sugamo Prison, Tokyo, Honshu, Japan, is designated as the place of confinement, or elsewhere as the Supreme Commander for the Allied Powers, or other proper authority, may direct.

R. L. Eichelberger

Lieutenant General, U. S. A.

Commanding