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BEFORE THE  
MILITARY COMMISSION  
CONVENED BY THE  
COMMANDING GENERAL  
UNITED STATES ARMY FORCES  
CHINA

UNITED STATES OF AMERICA

-vs-

SHIGERU SAWADA  
YUSEI WAKO  
RYUHEI OKADA  
SOTOJIRO TATSUTA

PUBLIC TRIAL

VOLUME I

PAGES 1 TO 110

SHANGHAI, CHINA.

DATE 1 MAY 1946



AUTHENTICATION

THIS CERTIFIES that this volume is a part of the Record of the Proceedings of the Military Commission appointed by Paragraph 2, Special Orders 42, Headquarters United States Forces, China Theater, dated 16 February 1946, in the trial of the case of United States of America against Shigeru Sawada, et al.

Dated 1 May 1946.

*Edwin R. McReynolds*

*Edwin R. McReynolds*

EDWIN R. McREYNOLDS  
Colonel, IGD,  
President of Commission



HEADQUARTERS CHINA SERVICE COMMAND  
Office of the Commanding General

000.5  
19

APO 945, c/o PM SF  
2 July 1946

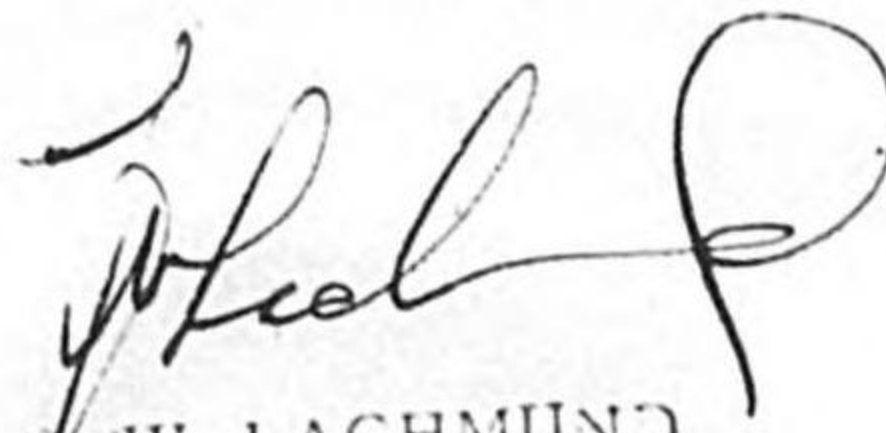
MEMORANDUM:

TO : International Prosecution Section  
GHQ, SCAP, APO 500, c/o PM SF

1. There are enclosed herewith five (5) volumes, pages numbered from 1 to 551, of the public trial of the United States of America vs Shigeru Sawada, Yusei Wako, Ryuhei Okada, Sotojiro Tatsuta.

2. This record of trial is being forwarded in response to radio request, Z-05450, from SCAP to COMGEN CHINA.

BY COMMAND OF LIEUTENANT GENERAL GILLEM:

  
W. W. LACHMUND  
CWO USA  
Asst.  Adj.

- 5 Incls  
1 - Volume I  
2 - Volume II  
3 - Volume III  
4 - Volume IV  
5 - Volume V

A. G. Reg. No. 69-7-026



## Doolittle Flyers Record

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PROCEEDINGS BEFORE MILITARY COMMISSION CONVENED  
BY ORDER OF THE COMMANDING GENERAL, UNITED STATES  
FORCES, CHINA THEATER, AT SHANGHAI, CHINA.

UNITED STATES OF AMERICA )  
 )  
 vs. )  
 )  
 SAWADA SHIGERU )  
 OKADA RYUHEI )  
 WAKO YUSEI )  
 TATSUDA SOTOJIRO )

RECORD OF TRIAL

... The Commission convened at 1000 hours on 27 February 1946 ...

COLONEL MC REYNOLDS: The Commission will convene and hear any matter brought before it.

LT COL HENDREN: Inasmuch as the proceedings in this case involve Japanese, it is requested that the Commission allow the proceedings to be translated from English to Japanese.

COLONEL MC REYNOLDS: The proceedings will be so translated.

LT COL HENDREN: There has been referred to this Military Commission for common trial the cases of the United States of America against Sawada Shigeru, the United States of America against Okada Ryuhei, the United States of America against Wako Yusei, and the United States of America against Tatsuda Sotojiro. The accused are now present together with the Defense Counsel appointed by the convening authority. The prosecution is ready to proceed.

COLONEL MC REYNOLDS: You may proceed.

LT COL HENDREN: The prosecution submits for incorporation into the records of these proceedings the following documents:

a. Letter Order appointing Lt Col Edmund J. Bodine and Captain Charles R. Fellows as Defense Counsel and Assistant Defense Counsel for the accused, said letter order dated 15 February 1946. (Transcript Exhibit No. 1.)

b. Paragraph 2, Special Orders No. 42, Headquarters, United States Forces, China Theater, dated 16 February 1946, at Shanghai, China, entitled "Appointment of a Military Commission." (Transcript Exhibit No. 2.)

c. Letter Order. AG 000.5 (21 Jan 46) JA, Headquarters, United States Forces, China Theater, dated 21 January 1946, APO 971, with the subject being "Regulations Governing the Trial of War Criminals." (Transcript Exhibit No. 3.)  
These regulations have been given to the defense counsel in advance and I am informed they have been read to the accused. Is that correct?

DEFENSE: Yes.

LT COL MC REYNOLDS: There being no objection, the documents are received in evidence.

(Transcript Exhibits 1, 2 and 3 were received in evidence and appended to the record hereto.)



PROSECUTOR: The prosecution is ready to proceed with the arraignment of Sawada Shigeru, Okada Ryuhei, Wako Yusei, and Tatsuda Sotojiro.

COLONEL MC REYNOLDS: The reporters will be sworn.

PROSECUTOR: You, Lillyan R. Moyle and Marshall H. Zeman, do swear that you will faithfully perform the duties of reporters of this Commission, So help you God.

MISS MOYLE and MR. ZEMAN: I do.

COLONEL MC REYNOLDS: The interpreters will be sworn.

PROSECUTOR: You, Captain Hahn, Sgt. Arita, Sgt. Kodama, Mr. Kunashiro, Mr. Remedios, and Mr. Krantz, do swear that you will truly interpret in the case now in hearing. So help you God.

INTERPRETERS: I do.

COL MC REYNOLDS: The Commission will be sworn.

PROSECUTOR: You, Colonel McReynolds, Colonel Gamber, Colonel Wise, Colonel Murphy, Lt Colonel Berry, and Colonel Disosway, do swear that you will well and truly try and determine, according to the evidence, the cases now brought before you, without partiality or favor; that you will not disclose or discover the vote or opinion of any particular member of the Commission upon any findings or sentence unless required to give evidence thereof as a witness in a Court of Justice in due course of law. So help you God.

EACH MEMBER OF THE COMMISSION: I do.

COLONEL MC REYNOLDS: The prosecution will be sworn.

You, Lt Colonel Hendren, do swear that you will faithfully and impartially perform the duties of prosecutor in the cases now brought before this Commission. So help you God.

LT COL HENDREN: I do.

PROSECUTOR: A certified copy of the Charges and Specifications against Sawada Shigeru, Okada Ryuhei, Wako Yusei and Tatsuda Sotojiro, together with a true and complete translation thereof into Japanese was served upon each of the accused by Lt Colonel Hendren on 23 February 1946, at Ward Road Jail, Shanghai, China.

COL MC REYNOLDS: The rights of the accused as set forth in Paragraph 14 of Letter Order dated 21 January 1946, Headquarters, United States Forces, China Theater, entitled "Regulations Governing the Trial of War Criminals," heretofore incorporated into the record, will be read.

PROSECUTOR: I'd like the interpreter to explain to the accused that all these readings will be translated to them in Japanese after they have been completed in English.

(Whereupon Captain Hahn translated the above statement by the prosecutor to the accused.)

PROSECUTOR: Will the President now read the rights of the accused?



COLONEL MC REYNOLDS: Rights of the Accused. The accused shall be entitled:

a. To have in advance of trial a copy of the charges and specifications, so worded as clearly as to apprise the accused of each offense charged.

b. To be represented prior to and during trial, by counsel of his own choice, or to conduct his own defense. If the accused fails to designate his counsel, the Commission shall appoint competent counsel to represent or advise the accused.

c. To have his own counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the Commission.

d. To have the charges and specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them.

The requirements of the rights of the accused have been complied with. Whom do the accused desire as Defense Counsel?

DEFENSE: The accused desire to introduce as their counsel, the defense counsel appointed by the convening authority as set forth in Paragraph 2, Special Orders No. 42, Headquarters, United States Forces, China Theater, dated 16 February 1946. The defense also desires to introduce special Japanese counsel, Mr. Komoshiro and Lt. T. Hayama.

COLONEL MC REYNOLDS: Do the accused wish to have the charges and specifications, the proceedings, and the documentary evidence translated to them?

DEFENSE: The accused so desire.

COLONEL MC REYNOLDS: The Charges and Specifications will now be read to the accused.

PROSECUTOR: The accused have heretofore been given copies of the charges and specifications translated into Japanese.

I will now read the Charge and Specifications under which Shigeru Sawada is to be tried.

(Charge and Specification of Shigeru Sawada is attached, marked Transcript Exhibit No. 4.)



HEADQUARTERS  
UNITED STATES FORCES  
CHINA THEATER  
Office of Theater Judge Advocate

APD 971  
18 February 1946

SUBJECT: Trial of Japanese War Criminal.  
TO: : Commanding General, U. S. Forces, China Theater.  
IN RE : United States of America

vs

Shigeru Sawada.

Transmitted herewith are charges against the above named Japanese War Criminal accused of violation of the laws and customs of war in the China Theater. The charges have been duly investigated and the case is now in order for reference to trial by a United States Military Commission appointed for trial of war criminals. It is requested that the charges be referred to a United States Military Commission for trial in a common trial with charges against Wako Yusei, Tatsuta Sotojiro, Okada Ryuhei, being transmitted by separate communications this date.

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

1 Incl:  
Charges against Jap War Criminal.

1st Ind.

Hq. United States Forces, China Theater, Shanghai, China,  
18 February 1946.

IN RE: United States of America

vs

Shigeru Sawada.

The attached charges against the accused Japanese war criminal above named are herewith referred for trial to Lt Col John H. Hendren, Jr, Hq, AAF CT, prosecutor of the United States Military Commission appointed by paragraph 2 of Special Orders 42 No. Hq, United States Forces, China Theater, dated 16 February 1946. It is directed that the attached charges against the accused Japanese war criminal Shigeru Sawada, be tried in a common trial with charges against Wako Yusei, Tatsuta Sotojiro, Okada Ryuhei, being transmitted by separate communications this date.

BY COMMAND OF LIEUTENANT GENERAL WEDEMEYER:

/s/ Ray T. Maddocks  
RAY T. MADDOCKS  
Major General, U.S.A.  
Chief of Staff

CERTIFIED TRUE COPY:

*John H. Hendren Jr.*  
*Lt Col. JAGD*



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER  
\*\*\*\*\*

BEFORE A MILITARY COMMISSION)	UNITED STATES OF AMERICA
CONVENED BY AUTHORITY OF )	
THE COMMANDING GENERAL )	VS
UNITED STATES FORCES CHINA )	
THEATER )	SHIGERU SAWADA
1 February 1946***** )	

CHARGE

That on or about the month of August 1942, Lieutenant General, then Major General SHIGERU SAWADA, Commanding General of the Japanese Imperial 13th Expeditionary Army in China, while a state of war existed between Japan and the United States of America and its Allies did, at or near Shanghai, China, knowingly, unlawfully and wilfully and by his official acts cause Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob De Shagor, United States Army Personnel and Prisoners of War, to be denied the status of Prisoners of War and to be tried and sentenced by a Japanese Military Tribunal in violation of the Laws and Customs of War.



## SPECIFICATIONS

1. That on or about the month of August 1942, at Shanghai, China SHIGERU SAWADA as Commanding General of the Japanese Imperial 13th Expeditionary Army in China did knowingly and wilfully constitute and appoint a Japanese Military Tribunal for the purpose of trying before the said Military Tribunal Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel, said personnel being rightfully entitled to the honorable status of Prisoners of War.
2. That on or about the month of August 1942, SHIGERU SAWADA in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did direct a Japanese Military Tribunal appointed by him at Shanghai, China, to try by Court-Martial Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel, on false and fraudulent charges.
3. That on or about the month of August 1942 and the month of October 1942, a Japanese Military Tribunal constituted and appointed by SHIGERU SAWADA, in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did at Shanghai, China, try Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel and Prisoners of War, upon false and fraudulent evidence in the said Military Tribunal appointed as aforesaid, and did sentence the above named United States Military Personnel to death all under the authority of the said SHIGERU SAWADA in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China.
4. That between the months of August 1942 and October 1942, SHIGERU SAWADA, as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did deny the status of prisoner of war to Lieutenant Dean E. Hallmark, United States Military Personnel and then a prisoner of war, and did knowingly and wilfully authorize the said Lieutenant Dean E. Hallmark to be imprisoned as a war criminal, to be denied proper food, clothing, medical care and shelter, and did authorize and allow cruel and brutal atrocities and other offenses to be committed against the said Lieutenant Dean E. Hallmark.
5. That between the months of August 1942 and October 1942, SHIGERU SAWADA as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did have the power to commute, remit and revoke the sentence of the said Japanese Military Tribunal imposed upon Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel and Prisoners of War, and did knowingly and wilfully fail to take such action, causing the unlawful death of Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz and Lieutenant Robert J. Meder, and unlawfully causing Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen and Corporal Jacob de Shazer to be sentenced to life imprisonment as war criminals.
6. That between the months of August 1942 and October 1942, SHIGERU SAWADA as Commanding General of the Japanese Imperial 13th Expeditionary Army in China did cause Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant



Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel, to be denied the honorable status of Prisoners of War and wrongfully caused them and each of them to be treated as war criminals.

7. That on or about the month of August 1942 at Shanghai China, SHIGERU SAWADA, in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China did wilfully and unlawfully fail to advise the United States Government thru a protecting Power that judicial proceedings had been directed against Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel and Prisoners of War, giving due notice of the date and place of trial and a statement of the Charges and Specifications pending against the aforesaid Prisoners of War.

1st February, 1946.

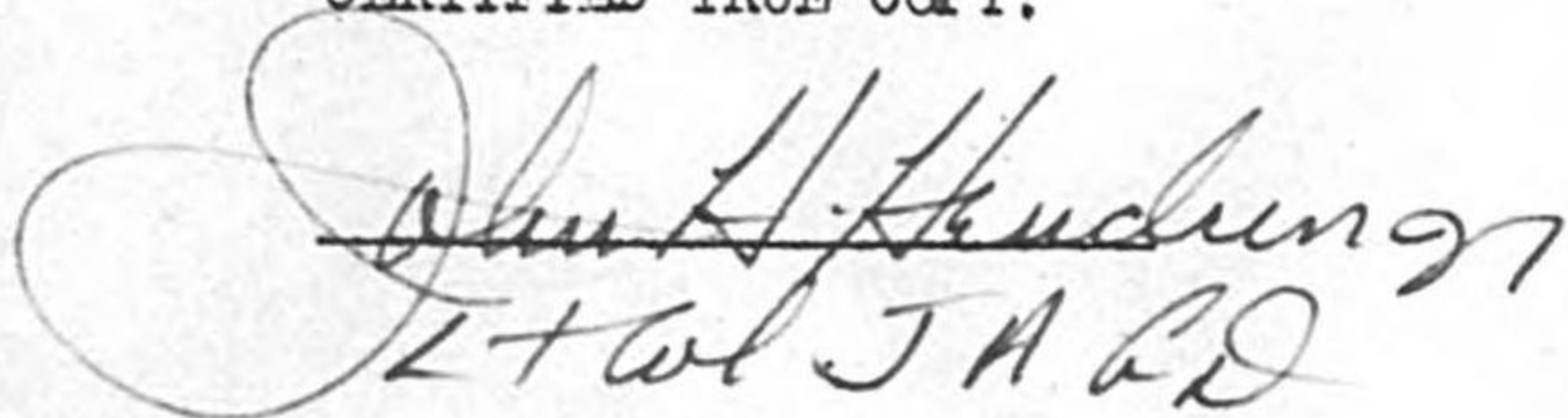
/S/ Chase J. Nielsen  
CHASE J. NIELSEN,  
Captain, Air Corps,  
Army of the United States.

AFFIDAVIT

Before me personally appeared the above named accuser this 1st day of February 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing charge and specifications and further that he has investigated the matters set forth in the charge and specifications and that the same are true in fact, to the best of his knowledge and belief.

/S/ John H. Hendren, Jr.  
JOHN H. HENDREN, JR.  
Lieutenant Colonel, JAGD

CERTIFIED TRUE COPY:

  
Lt Col JAGD



PROSECUTOR: I desire at this time to introduce a motion relative to this charge. This motion reads as follows:

GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

BEFORE THE MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF THE )  
COMMANDING GENERAL, UNITED )  
STATES FORCES, CHINA THEATER )

UNITED STATES OF AMERICA

vs.

SHIGERU SAWADA

MOTION TO DISMISS SPECIFICATION

COMES NOW, Lt. Colonel John H. Hendren, Jr., JAGD, prosecutor before a Military Commission appointed by the Commanding General, United States Forces, China Theater, by Paragraph 2 of Special Order No. 42, dated 16 February 1946, and by authority of appointing authority requests that Specification 7 to the Charges against the said Shigeru Sawada be dismissed.

Dated 27 February 1946.

s/ John H. Hendren, Jr.  
t/ JOHN H. HENDREN, JR.  
Lt. Colonel, JAGD,  
Prosecutor for the  
Military Commission.

(The foregoing motion is appended to the record hereto, marked Transcript Exhibit No. 5.)

PROSECUTOR: The reason for that motion, if it please the Commission, is that the decision of the U.S. Supreme Court in the Yamashita case holds that the Rules of Land Warfare which governs all the participants in the war only applies to offenses committed while persons are prisoners of war, and the offenses for which these persons were tried were offenses prior to the time they were made prisoners of war and therefore that last specification does not allege violation of war. I move at this time this motion be admitted and Specification 7 be dismissed. I think this is by agreement with the defense counsel. They have been advised of this motion.

COLONEL MC REYNOLDS: Is there any objection by the defense on this motion?

DEFENSE: No objection on this motion.

COLONEL MC REYNOLDS: The motion by the prosecution is sustained. Specification 7 of the Charge against Shigeru Sawada is hereby dismissed.

PROSECUTOR: I will now read the Charge and Specifications against Tatsuta Sotojiro.

(Whereupon Prosecutor read the Charge and Specifications against Tatsuta Sotojiro, marked Transcript Exhibit No. 6 and attached hereto.)



HEADQUARTERS  
UNITED STATES FORCES  
CHINA THEATER  
Office of Theater Judge Advocate

APO 971  
18 February 1946

SUBJECT: Trial of Japanese War Criminal.  
TO : Commanding General, U. S. Forces, China Theater.  
IN RE : United States of America

vs

Tatsuta Sotojiro.

Transmitted herewith are charges against the above named Japanese War Criminal accused of violation of the laws and customs of war in the China Theater. The charges have been duly investigated and the case is now in order for reference to trial by a United States Military Commission appointed for trial of war criminals. It is requested that the charges be referred to a United States Military Commission for trial in a common trial with charges against Shigeru Sawada, Wako Yusei, Okada Ryuhei, being transmitted by separate communications this date.

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

1 Incl:  
Charges against Jap War Criminal.

1st Ind.

Hq, United States Forces, China Theater, Shanghai, China,  
18 February, 1946.

IN RE: United States of America

vs

Tatsuta Sotojiro.

The attached charges against the accused Japanese war criminal above named are herewith referred for trial to Lt Col John H. Hendren, Jr, Hq, AAF CT, prosecutor of the United States Military Commission appointed by paragraph 2 of Special Orders 42 No. Hq, United States Forces, China Theater, dated 16 February 1946. It is directed that the attached charges against the accused Japanese war criminal Tatsuta Sotojiro, be tried in a common trial with Charges against Shigeru Sawada, Wako Yusei, Okada Ryuhei, being transmitted by separate communications this date.

BY COMMAND OF LIEUTENANT GENERAL WEDEMAYER:

/S/ Ray T. Maddocks  
RAY T. MADDOCKS  
Major General, U.S.A.  
Chief of Staff

CERTIFIED TRUE COPY:



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER  
\*\*\*\*\*

BEFORE A MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL )  
UNITED STATES FORCES CHINA )  
THEATER )  
1 February 1946 \*\*\*\*\* )

UNITED STATES OF AMERICA  
VS  
TATSUTA SOTOJIRO

CHARGE

That on or about the 15th October 1942, TATSUTA SOTOJIRO, Captain in the Japanese Imperial 13th Expeditionary Army in China, while a state of war existed between Japan and the United States of America and its Allies did at Shanghai, China, knowingly, unlawfully and wilfully command and execute an unlawful Order of a Japanese Military Tribunal, and did thereby cause the death of Lieutenant Dean E. Hallmark, Lieutenant Willian G. Farrow and Sergeant Harold A. Spatz, United States Army Personnel who were lawfully and rightfully Prisoners of War and that the aforesaid TATSUTA SOTOJIRO then Commanding Officer of the Kiangwan Military Prison, Shanghai, China, and in his capacity as such did between the period of 28 August 1942 and 17 April 1943 at Kiangwan Military Prison deny the status of Prisoners of War to Lieutenant Dean E. Hallmark, Lieutenant Willain G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob De Shazer, United States Army Personnel and Prisoners of War, all in violation of the Laws and Customs of War.

CERTIFIED TRUE COPY:



SPECIFICATIONS

1. That on or about the 15 October 1942, TATSUTA SOTOJIRO then Commanding Officer of Kiangwan Military Prison, Shanghai, China, did unlawfully, knowingly and wilfully command a detail of Japanese Military Personnel which carried out the execution of Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow and Sergeant Harold A. Spatz, United States Army Personnel and did specifically order and command certain Japanese soldiers to fire upon and kill the said Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow and Sergeant Harold A. Spatz, United States Army Personnel, and Prisoners of War.

2. That from 28 August 1942, until 17 April 1943, at Kiangwan Military Prison, Shanghai, China, TATSUTA SOTOJIRO then Commanding Officer of the Kiangwan Military Prison, Shanghai, China, and in his capacity as such, did deny the status of Prisoners of War to Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob De Shazer, United States Army Personnel and Prisoners of war and did cause them to be treated as War Criminals.

1 February 1946.

/S/ Chase J. Nielsen  
CHASE J. NIELSEN,  
Captain, Air Corps,  
Army of the United States.

AFFIDAVIT

Before me personally appeared the above named accuser this First day of February 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing charge and specifications and further that he has investigated the matters set forth in the charge and specifications and that the same are true in fact, to the best of his knowledge and belief.

/S/ John H. Hendren, Jr.  
JOHN H. HENDREN, JR.  
Lieutenant Colonel, JAGD.

CERTIFIED TRUE COPY:

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PROSECUTOR: Now if it please the Commission, as to the second specification of that charge, the prosecution feels that that second specification is not clear and does not sufficiently advise the accused of the charge against him, therefore we had prepared a motion to amend that specification. I'd like to offer the motion at this time. The motion reads as follows:

GENERAL HEAD QUARTERS  
UNITED STATES FORCES, CHINA THEATER

BEFORE THE MILITARY COMMISSION ) UNITED STATES OF AMERICA  
CONVENED BY AUTHORITY OF THE )  
COMMANDING GENERAL, UNITED ) vs.  
STATES FORCES CHINA THEATER )  
TATSUTA SOTOJIRO

MOTION TO AMEND SPECIFICATIONS

COMES NOW, Lt. Colonel John H. Hendren, Jr., JAGD, prosecutor before a Military Commission appointed by the Commanding General, United States Forces, China Theater, by Paragraph 2, of Special Order No. 42, dated 16 February 1946, and by authority of appointing authority requests that Specification 2 of the Specifications attached to the Charges against Tatsuta Sotojiro be amended by deleting the period (.) after the word "Criminals" in the last line of the said Specification and inserting in lieu thereof a comma (,) and by adding to said Specification the following:

"by forcibly detaining the above named prisoners of war in solitary confinement without adequate or proper quarters or shelter, bedding, food, water, sanitary facilities, clothing, medical care, and other essential facilities and supplies, and by deliberate failure and refusal, without justification, to provide such facilities and supplies."

Dated 27 February 1946.

s/ John H. Hendren, Jr.  
t/ JOHN H. HENDREN, JR.  
Lt. Colonel, JAGD,  
Prosecutor for the  
Military Commission

(The foregoing motion is appended to the record hereto, marked Transcript Exhibit No. 7.)

PROSECUTOR: This motion has been discussed with the counsel for the accused. It is my understanding the counsel for the accused does not object to this motion. I offer it at this time.

COLONEL MC REYNOLDS: Does counsel for the accused object to the motion?

DEFENSE: No objection.

COLONEL MC REYNOLDS: The motion to amend Specification 2 to the specifications against Tatsuda Sotojiro is sustained and the specification is amended as set forth in the motion.

PROSECUTOR: I will now read the Charges against Okada Ryuhei and Wako Yusei.

(Whereupon Prosecutor read the Charges against Okada Ryuhei and Wako Yusei, attached and marked Transcript Exhibits Nos. 8 and 9 respectively.)



HEADQUARTERS  
UNITED STATES FORCES  
CHINA THEATER  
Office of Theater Judge Advocate

APO 971  
18 February 1946

SUBJECT: Trial of Japanese War Criminal.

TO : Commanding General, U. S. Forces, China Theater.

IN RE : United States of America

vs

Okada Ryuhei.

Transmitted herewith are charges against the above named Japanese War Criminal accused of violation of the laws and customs of war in the China Theater. The charges have been duly investigated and the case is now in order for reference to trial by a United States Military Commission appointed for trial of war criminals. It is requested that the charges be referred to a United States Military Commission for trial in a common trial with charges against Shigeru Sawada, Wako Yusei, Tatsuta Sotojiro, being transmitted by separate communications this date.

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

1: Incl:  
Charges against Jap War Criminal.

1st Ind.

Hq, United States Forces, China Theater, Shanghai, China,  
18 February 1946.

IN RE: United States of America

vs

Okada Ryuhei.

The attached charges against the accused Japanese war criminal above named are herewith referred for trial to Lt Col John H. Hendren, Jr, Hq, AAF CT, prosecutor of the United States Military Commission appointed by paragraph 2 of Special Orders 42 No. , Hq, United States Forces, China Theater, dated 16 February 1946. It is directed that the attached charges against the accused Japanese war criminal Okada Ryuhei, be tried in a common trial with charges against Shigeru Sawada, Wako Yusei, Tatsuta Sotojiro, being transmitted by separate communications this date.

BY COMMAND OF LIEUTENANT GENERAL WEDEMEYER:

/S/ Ray T. Maddocks  
RAY T. MADD CKS  
Major General, U.S.A.  
Chief of Staff

CERTIFIED TRUE COPY:

Robert T. J. J. J.  
Major J. A. G. S.



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER  
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BEFORE A MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL )  
UNITED STATES FORCES CHINA )  
THEATER )  
1 February 1946\*\*\*\*\* )

UNITED STATES OF AMERICA  
VS  
OKADA RYUHEI

CHARGE

That on or about the month of August 1942,  
Captain, then Second Lieutenant, OKADA RYUHEI, of the  
Japanese Imperial 13th Expeditionary Army in China, while  
a state of war existed between Japan and the United States  
of America and its Allies, and as a member of a Japanese  
Military Tribunal, did at Kiangwan Military Prison,  
Shanghai, China, knowingly, unlawfully and wilfully try,  
prosecute and adjudge that Lieutenant Dean E. Hallmark,  
Lieutenant William G. Farrow, Sergeant Harold E. Spatz,  
Lieutenant Robert L. Hite, Lieutenant George Barr, Lieuten-  
and Chase J. Nielsen, Lieutenant Robert J. Meder and  
Corporal Jacob De Shazer, United States Army Personnel,  
then Prisoners of War, to be put to death in violation of  
the Laws and Customs of War.

CERTIFIED TRUE COPY:

*John A. Henderson*  
*Lt Col JAD*  
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SPECIFICATION

That on or about the month of August 1942, Captain, then Second Lieutenant OKADA RYUHEI, of the Japanese 13th Expeditionary Army in China, while a state of war existed between Japan and the United States of America and its Allies, and as a member of a Japanese Military Tribunal, did at Kiangwan Military Prison, Shanghai, China, knowingly, unlawfully and wilfully try, prosecute and, without a fair trial, adjudge certain charges against Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob De Shazer, United States Army Personnel, then Prisoners of War, and without affording the above named Prisoners of War a fair hearing or trial and without affording them the right to counsel and the interpretation of the proceedings into English, and without affording them an opportunity to defend themselves, did on or about the above date, sentence the aforesaid Prisoners of War to death.

1 February 1946

/s/ Chase J. Nielsen  
CHASE J. NIELSEN,  
Captain, Air Corps,  
Army of the United States.

AFFIDAVIT

Before me personally appeared the above named accuser this First day of February 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing charge and specification and further that he has investigated the matters set forth in the charge and specification and the same are true in fact, to the best of his knowledge and belief.

/S/ John H. Hendren Jr  
JOHN H. HENDREN, JR.  
Lieutenant Colonel, JAGD.

CERTIFIED TRUE COPY:

John H. Hendren Jr.  
Lt Col JAGD



HEADQUARTERS  
UNITED STATES FORCES  
CHINA THEATER  
Office of Theater Judge Advocate

APO 971  
18 February 1946

SUBJECT: Trial of Japanese War Criminal.  
TO : Commanding General, U. S. Forces, China Theater.  
IN RE : United States of America

vs

Wako Yusei.

Transmitted herewith are charges against the above named Japanese War Criminal accused of violation of the laws and customs of war in the China Theater. The charges have been duly investigated and the case is now in order for reference to trial by a United States Military Commission appointed for trial of war criminals. It is requested that the charges be referred to a United States Military Commission for trial in a common trial with charges against Shigeru Sawada, Tatsuta Sotojiro, Okada Ryuhei, being transmitted by separate communications this date.

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

1 Incl:  
Charges against Jap War Criminal.

1st Ind.

Hq, United States Forces, China Theater, Shanghai China,  
18 February, 1946.

IN RE: United States of America

vs

Wako Yusei.

The attached charges against the accused Japanese war criminal above named are herewith referred for trial to Lt Col John H. Hendren, Jr, Hq, AAF CT, prosecutor of the United States Military Commission appointed by paragraph 2 of Special Orders 42 No. Hq, United States Forces, China Theater, dated 16 February 1946. It is directed that the attached charges against the accused Japanese war criminal Wako Yusei, be tried in a common trial with charges against Shigeru Sawada, Tatsuta Sotojiro, Okada Ryuhei, being transmitted by separate communications this date.

BY COMMAND OF LIEUTENANT GENERAL WEDEMEYER:

/S/ Ray T. Maddocks  
RAY T. MADDOCKS  
Major General, U. S. A.  
Chief of Staff

CERTIFIED TRUE COPY:

*John A. Hendren*  
Lt Col. JAGD



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER  
\*\*\*\*\*

BEFORE A MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL )  
UNITED STATES FORCES CHINA )  
THEATER )

UNITED STATES OF AMERICA

VS

WAKO YUSEI

1 February 1946\*\*\*\*\* )

CHARGE

That on or about the month of August 1942,  
Lieutenant WAKO YUSEI, of the Japanese Imperial 13th  
Expeditionary Army in China, while a state of war exist-  
ed between Japan and the United States of America and its  
Allies, and as a member of a Japanese Military Tribunal,  
did at Kiangwan Military Prison, Shanghai, China, know-  
ingly, unlawfully and wilfully try, prosecute and adjudge  
that Lieutenant Dean E. Hallmark, Lieutenant William G.  
Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite,  
Lieutenant George Barr, Lieutenant Chase J. Nielsen,  
Lieutenant Robert J. Meder and Corporal Jacob De Shazer,  
United States Army Personnel, then Prisoners of War, to be  
put to death in violation of the Laws and Customs of War.

CERTIFIED TRUE COPY:

*John H. Anderson*  
*Lt Col JABD*



SPECIFICATION

That on or about the month of August 1942, Lieutenant WAKO YUSEI, of the Japanese 13th Expeditionary Army in China, while a state of war existed between Japan and the United States of America and its Allies, and as a member of a Japanese Military Tribunal, did at Kiangwan Military Prison, Shanghai, China, knowingly, unlawfully, and wilfully try, prosecute and without a fair trial adjudge certain charges against Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob De Shazer, United States Army Personnel, then Prisoners of War, and without affording the above named Prisoners of War a fair hearing or trial and without affording them the right to counsel and the interpretation of the proceedings into English and without affording them an opportunity to defend themselves did on or about the above date, sentence the aforesaid Prisoners of war to death.

1 February 1946.

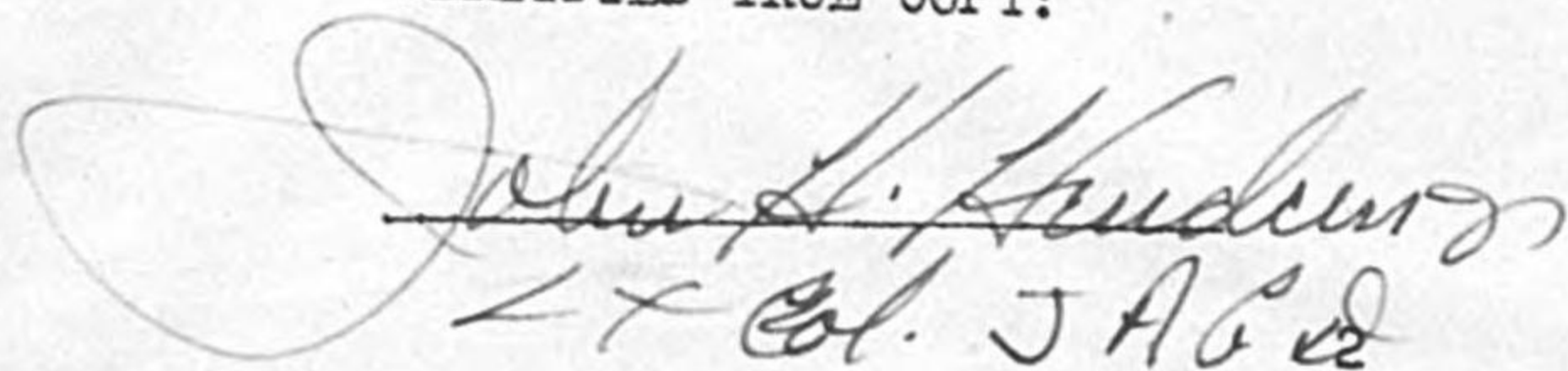
/S/ Chase J. Nielsen  
CHASE J. NIELSEN,  
Captain, Air Corps,  
Army of the United States.

AFFIDAVIT

Before me personally appeared the above named accuser this First day of February 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing charge and specifications and further that he has investigated the matters set forth in the charge and specification and that the same are true in fact, to the best of his knowledge and belief.

/S/ John H. Hendren, Jr.  
JOHN H. HENDREN, JR.  
Lieutenant Colonel, JAGD.

CERTIFIED TRUE COPY:

  
Lt Col. JAGD



COLONEL MC REYNOLDS: There being no objection the Charges and Specifications as amended are received into evidence.

(Transcript Exhibit Nos. 4, 6, 8 and 9 were received in evidence.)

DEFENSE: At this time I'd like to challenge a member of the Court.

PROSECUTOR: If the court please, there is no provision made in the regulations appointing this court for challenge. I would like to object to the motion because there is no provision for challenge of a member in a U.S. Military Commission.

DEFENSE: I would like to state that in any trial the United States has, the basic function of it is to have justice and therefore if one member of the court has expressed an opinion before the case has gone to trial I think it should be heard.

COLONEL MC REYNOLDS: Will the defense state the circumstances under which you base your objection or challenge.

DEFENSE: If the Commission desires I would like to put the member that I would challenge on the witness stand and have him testify under oath. There was an opinion given by one member of the court in public.

PROSECUTOR: I believe the proper procedure would be, if the Commission desires, to close the court. If any member of the Commission feels he should not serve because he is biased or prejudiced or he has formed an opinion as to the guilt or innocence of the accused, then the Commission should ask to excuse the member. It is entirely within the discretion of the Commission, and I oppose placing any member of this Commission on the witness stand for the purpose of the defense counsel.

COLONEL MC REYNOLDS: The Commission will be closed to consider the motion of the defense counsel.

(Whereupon the Commission was closed at 1055 hours.)

COLONEL MC REYNOLDS: The Commission is in session. (1120 hrs.)

It appears that there is no precedent for a motion to challenge for cause a member of a military commission. However, the Commission has discussed the matter. Appointed as alternate to the Commission is Colonel Disosway who is prejudiced regarding the accused. Accordingly, the Commission has decided to relieve Colonel Disosway as an alternate to this Commission. Will Colonel Disosway please retire?

(Whereupon Colonel Disosway was excused from the Commission and withdrew.)

COLONEL MC REYNOLDS: Does this meet your point, Defense Counsel? Do you desire to withdraw your motion?

DEFENSE: I withdraw my motion.

COLONEL MC REYNOLDS: Proceed.

DEFENSE: The defense for the accused likes to state he is now satisfied with the Commission as it now exists.

PROSECUTOR: The defense counsel has some motions he would like to present now.



DEFENSE: The accused, Sawada Shigeru, now offers a motion to dismiss the Charge and all specifications against him for failure of jurisdiction by this Commission.

GENERAL HEAD QUARTERS  
UNITED STATES FORCES, CHINA THEATER

BEFORE A MILITARY COMMISSION ) UNITED STATES OF AMERICA  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL ) vs.  
UNITED STATES FORCES )  
CHINA THEATER ) SHIGERU SAWADA

MOTION TO DISMISS FOR FAILURE OF JURISDICTION

COMES NOW the accused, Shigeru Sawada, and moves this Commission to dismiss the Charge and all Specifications as against this accused for the reason that neither this commission, nor the authority under which it was appointed and convened has jurisdiction over the person of this accused for trial of offenses in violation of the Laws of War within the Republic of China.

s/ Shigeru Sawada  
t/ SHIGERU SAWADA

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE  
Lt. Col., AC,  
Defense Counsel.

s/ Charles R. Fellows  
t/ CHARLES R. FELLOWS  
Captain, JAGD,  
Asst Def. Counsel.

I hereby certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE, Lt Col AC  
Defense Counsel.

(The foregoing Motion is marked Transcript Exhibit No. 10 and is appended to the record hereto.)

DEFENSE: I would like to express my reasons to the Court.

1. The jurisdiction of this Commission comes from General Wedemeyer, China Theater Commander, who received his jurisdiction from the Joint Chiefs of Staff in Washington, D.C. The Joint Chiefs of Staff in Washington have no jurisdiction to appoint courts and exercise powers of sovereignty in China.

2. The Republic of China has superior jurisdiction and has not waived it by any governmental act.

3. The mere administrative acts of local Chinese agencies cannot constitute a governmental consent to a foreign power setting up extra-territorial courts in China. Therefore this Commission has no authority to try this case before it.



COLONEL MC REYNOLDS: Does the Prosecution oppose that motion?

PROSECUTOR: Prosecution opposes the motion. As I understand this motion--the lack of jurisdiction of this court--because it does not have the authority to sit within the Republic of China. The defense counsel has also questioned the authority of General Wedemeyer to appoint a Commission, stating that his authority comes from the Joint Chiefs of Staff in Washington.

I would like to point out to the court the recent United States Supreme Court decision in the matter of General Yamashita which was decided by the Supreme Court on February 4, 1946, as to the authority to create a Commission. The court had this to say:

"General Styer's order for the appointment of the Commission was made by him as Commander of the United States Armed Forces, Western Pacific. His command includes, as part of a vastly greater area, the Philippine Islands, where the alleged offenses were committed."

That is directly a point with General Wedemeyer's authority to appoint a Commission regardless of any authority he may have received or sanction of the permission from the Joint Chiefs of Staff. General Wedemeyer exercises general court martial jurisdiction. He is Commander of the United States Armed Forces in China. The offenses alleged were committed in China. The prisoners are in China under the control of the U.S. Army, therefore I think the motion is not well taken as to the authority of the Theater Commander.

As to the extra-territoriality of China, it is true that extra-territoriality as far as civil courts and criminal courts and federal courts, by agreement between our government and China are out, but as far as a military commission we are here in China by consent of the Chinese government and I submit that the only authority to challenge this Commission is the Chinese government and not the accused in this case. Those accused are in China; the court is constituted in China; we have received no objection from the Chinese government, therefore I request the President of the Commission to deny the motion.

COLONEL MC REYNOLDS: Does the defense counsel have any other argument on this?

DEFENSE: I want to repeat that the Republic of China has superior jurisdiction and has not waived it by any governmental act. I agree with the prosecution in what he said about the United States having the jurisdiction of setting up courts martials. I don't think this is considered in the sense of the law a court martial.

COLONEL MC REYNOLDS: Subject to objection by any member, the motion is denied.

DEFENSE: I now offer a similar motion to dismiss the charge against Tatsuda Sotojiro.



GENERAL HEADQUARTERS  
UNITED STATES FORCES CHINA THEATER

BEFORE A MILITARY COMMISSION ) UNITED STATES OF AMERICA  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL ) vs.  
UNITED STATES FORCES )  
CHINA THEATER ) TATSUDA SOTOJIRO

MOTION TO DISMISS FOR FAILURE OF JURISDICTION

Comes now the accused, Tatsudo Sotojiro, and moves this commission to disriss the Charge and all Specifications as against this accused for the reason that neither this commission, nor the authority under which it was appointed and convened has jurisdiction over the person of this accused for trial of offenses in violation of the Laws of War within the Republic of China.

s/ Tatsuda Sotojiro  
t/ Tatsuda Sotojiro

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE,  
Lt. Col., AC,  
Defense Counsel.

s/ Charles R. Fellows  
t/ CHARLES R. FELLOWS  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE,  
Lt Col AC,  
Defense Counsel.

(The foregoing Motion is marked Transcript Exhibit No. 11, and is appended to the record hereto.)

COLONEL MC REYNOLDS: Does the prosecution oppose that motion of defense counsel?

PROSECUTOR: Prosecution opposes that motion on similar grounds as the motion for lack of jurisdiction to try Shigeru Sawada.

COLONEL MC REYNOLDS: The motion is denied for the same reasons as set forth in the other motion.

DEFENSE: I now offer a similar motion to disniss the charges against Okada Ryuhei for failure of jurisdiction.



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL )  
UNITED STATES FORCES )  
CHINA THEATER )

UNITED STATES OF AMERICA  
  
VS  
  
OKADA RYUHEI

MOTION TO DISMISS FOR FAILURE OF JURISDICTION

Comes now the accused, Okada Ryuhei, and moves this commission to dismiss the Charge and all Specifications against this accused for the reason that neither this commission, nor the authority under which it was appointed and convened has jurisdiction over the person of this accused for trial of offenses in violation of the Laws of War within the Republic of China.

/s/ (In Japanese Characters)  
/t/ OKADA RYUHEI

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE,  
Lt Col., AC,  
Defense Counsel.

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS,  
Captain, JAGC  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col  
John H. Hendren, Jr. Chief Prosecutor of this Commission on 26  
February 1946.

/s/ Edmund J. Bodine  
EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.



(The foregoing Motion is marked Transcript Exhibit No. 12 and is appended to the record hereto.)

PROSECUTOR: For similar reasons, the prosecution moves this Commission to deny the motion.

COLONEL MC REYNOLDS: The motion is denied for the same reasons set forth in the other motions.

DEFENSE: I now offer a similar motion to dismiss for failure of jurisdiction.

GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

BEFORE A MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL )  
UNITED STATES FORCES )  
CHINA THEATER )

UNITED STATES OF AMERICA.

vs

WAKO YUSEI

MOTION TO DISMISS FOR FAILURE OF JURISDICTION

Comes now the accused, Wako Yusei, and moves this commission to dismiss the Charge and all Specifications as against this accused for the reason that neither this commission, nor the authority under which it was appointed and convened has jurisdiction over the person of this accused for trial of offenses in violation of the Laws of War within the Republic of China.

s/ Wako Yusei  
t/ WAKO YUSEI

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE  
Lt. Col., AC,  
Defense Counsel.

s/ Charles R. Fellows  
t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.

(The foregoing Motion is marked Transcript Exhibit No. 13 and is appended to the record hereto.)

PROSECUTOR: Prosecution opposes this motion for similar reasons as set forth for the other three motions.

COLONEL MC REYNOLDS: The motion is denied for the same reasons as set forth before.

DEFENSE: I now offer another motion.



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION ) UNITED STATES OF AMERICA  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL ) VS  
UNITED STATES FORCES )  
CHINA THEATER ) SHIGERU SAWADA

MOTION TO SEVER

Comes now the accused, Shigeru Sawada, and objects to a common trial in this case, and moves the court to sever the charge and all specifications as against this accused from the trial on the charges and specifications against the other accused.

/s/ Shigeru Sawada  
/t/ SHIGERU SAWADA

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE,  
Lt Col., JAGD,

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.



(The foregoing Motion is marked Transcript Exhibit No. 14 and is appended to the record hereto.)

DEFENSE: I would like to point out my reasons for that motion. The law states: (1) If in the case of offenses and violations against the law the defendants formed a conspiracy, such defendants may be tried jointly for the same crime.

(2) In criminal cases, two or more persons who have committed a crime may be jointly indicted only where the offense is such that it may be committed by two jointly and not where there are distinct and different offenses.

(3) The law states that the evidence as to one will in some manner prejudice another's defense.

The reasons for the motion to sever are as follows:

(1) The accused are not charged with crimes involving a conspiracy.

(2) The charges and specifications against the accused are a series of offenses and violations all separate and distinct from each other. In none of these offenses were all these accused commonly and jointly engaged.

(3) It is therefore prejudicial as to each of the accused to have in his case evidence brought in as to another offense, and against another accused, to which he himself is not charged.

PROSECUTOR: The prosecution moves this court to deny the motion for the following reasons: In the first place, the reference to trial in this case by the convening authority specifically stated that these cases were to be tried in a common trial. That reference is made as to each of the charges.

The charges do not allege that these persons were engaged in a conspiracy because I don't believe there is a conspiracy. We can allege as to each person what particular part of this offense he performed and let this Commission try all these persons in one trial.

Although we do not refer to the court martial manual in cases by military commissions, we will note the Motion to Sever is discussed in Paragraph 71 of the Manual for Courts Martial, page 55. It says therein that that motion will apply where the defense of one person will be antagonistic to the defense of another in putting on his defense to his case. Now I can see of no defense in this case that would be antagonistic one to the other. The Manual for Courts Martial further provides that in joint offenses the participants may be separately or jointly charged and provides that in drafting the charges in such cases, consideration should be given to the increased labor, time and expense that may be involved in separate trials. Although the Manual does not apply completely to military commissions, one of the reasons the Commanding General referred these cases for a common trial was to save the necessity of putting all the evidence on in this case four separate times. That, as you know, would take an enormous amount of time and expense.

The evidence in this case shows each man had something to do with the death of those fliers and the punishment of the other fliers, so it would not be antagonistic to try them in the same case and their rights would be fully protected. For these reasons I move the Commission deny the motion.



COLONEL MC REYNOLDS: Subject to objection by any member, the Motion is denied.

DEFENSE: I have several motions of the accused, motions to sever and I would like to submit them altogether to save time, with the permission of the court.

COLONEL MC REYNOLDS: Proceed.

DEFENSE: I will now read the Motions to Sever of the accused, Wako Yusui, Okada Ryunei and Tatsuda Sotojiro.

(The foregoing Motions are attached, marked Transcript Exhibits Nos. 15, 16 and 17 respectively.)



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION )	UNITED STATES OF AMERICA
CONVENED BY AUTHORITY OF )	
THE COMMANDING GENERAL )	VS
UNITED STATES FORCES )	
CHINA THEATER )	WAKO YUSEI

MOTION TO SEVER

Comes now the accused, Wako Yusei, and objects to a common trial in this case, and moves the court to sever the charge and all specifications as against this accused from the trial on the charges and specifications against the other accused.

/s/ Wako Yusei  
/t/ WAKO YUSEI

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE,  
Lt Col., AC  
Defense Counsel.

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION )  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL )  
UNITED STATES FORCES )  
CHINA THEATER )

UNITED STATES OF AMERICA

VS

OKADA RYUHEI

MOTION TO SEVER

Comes now the accused, Okada Ryuhei, and objects to a common trial in this case, and moves the court to sever the charge and all specifications as against this accused from the trial on the charges and specifications against the other accused.

/s/ (In Japanese Characters)  
/t/ OKADA RYUHEI

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE  
Lt Col., AC,  
Defense Counsel

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst. Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION )	UNITED STATES OF AMERICA
CONVENED BY AUTHORITY OF )	
THE COMMANDING GENERAL )	VS
UNITED STATES FORCES )	
CHINA THEATER )	TATSUDO SOTOJIRO

MOTION TO SEVER

Comes now the accused, Tatsudo Sotojiro and objects to a common trial in this case, and moves the court to sever the charge and all specifications as against this accused from the trial on the charges and specifications against the other accused.

/s/ (In Japanese Characters)  
/t/ TATSUDO SOTOJIRO

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE,  
Lt Col., AC,  
Defense Counsel.

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.



PROSECUTOR: The prosecution objects to these motions, all entered at one time. I think the ruling of the court must be separate on each motion, if the court desires to overrule the motions.

COLONEL MC REYNOLDS: The motion is denied in the case of Okada Ryuhai, Tatsuda Sotojiro and Wako Yusei.

DEFENSE: If the Commission please, the defense has a further motion to offer on behalf of Shigeru Sawada. This is a motion to Dismiss, which reads as follows:

GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

BEFORE A MILITARY COMMISSION )	UNITED STATES FORCES
CONVENED BY AUTHORITY OF )	
THE COMMANDING GENERAL )	vs.
UNITED STATES FORCES )	
CHINA THEATER )	SHIGERU SAWADA.

MOTION TO DISMISS

Comes now, Shigeru Sawada, and moves the commission to dismiss Specifications one, two, three and five of the Charge against this accused, for the reason that these specifications fail to state a violation of the Laws of War.

s/ Shigeru Sawada  
t/ SHIGERU SAWADA

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE,  
Lt. Col., AC,  
Defense Counsel.

s/ Charles R. Fellows  
t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

s/ Edmund J. Bodine  
t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.

(The foregoing Motion to Dismiss is marked Transcript Exhibit No. 18, and is appended to the record hereto.)

DEFENSE: I take it that in any court of law on any charges the law of charges is about the same, that the charge and specifications must state an offense and a complete offense. This is true whether in a Federal court, a court-martial or a military commission, that if the specification does not state a complete and total offense, it is subject to a motion to dismiss. The reason is obvious because if an accused were to plead guilty to the specifications which is not an offense, he has pleaded guilty to nothing.



I think the rule is stated properly in the Manual for Courts-Martial. There it says as to specifications that it must contain a statement in simple and concise language the facts constituted in the offense. It should include all the elements of the offense sought to be charged.

I believe the prosecution will agree that if a specification does not state the entire elements of an offense it is subject to a motion for dismissal. These accused and this accused is before this commission as an alleged war criminal. The jurisdiction of the commission depends upon the offense charged which is stated in the letter that the prosecution offered in evidence this morning for jurisdiction, and I'll quote the words generally used in it - "Violation of the Laws or Customs of War."

If the specification does not state a violation of the Laws or Customs of War then I take it that the motion I have just made is good. I don't want to become technical and try to interpret vague rules and statements of the laws of war, but I do want to point out a rather obvious defect in these specifications.

As regards Specification 1, it is stated that on or about the month of August 1942, at Shanghai, China, Shigeru Sawada as Commanding General of the Japanese Imperial 13th Expeditionary Army in China did knowingly and wilfully constitute and appoint a Japanese Military Tribunal for the purpose of trying before the said Military Tribunal Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielson, Lieutenant Robert J. Heder and Corporal Jacob de Shazer, United States Army Personnel, said personnel being rightfully entitled to the honorable status of Prisoners of War.

In brief, the specification merely states that General Sawada did appoint a Military Tribunal to try United States Army personnel who were entitled to the honorable status of prisoners of war. I ask the Commission what is wrong with that? That is neither an offense nor a wrong. Any prisoner of war is to be entitled to be tried by a tribunal by the attaining power if he commits an offense. They have said these prisoners have not committed an offense; merely a commission was appointed to try them.

The Geneva Convention sets forth many rules to the effect as to how you try them. It is not alleged those are violated. All that is alleged is that a tribunal was appointed to try these men. This court is doing the same thing. You are trying these men at this time. Is that an offense - a mere appointment of a commission?

I read this specification two or three times trying to see where there is anything in there - the word wrongfully, unlawfully. There is not. It only states that a Commission was appointed to try military personnel who were entitled to the honorable status of prisoners of war. That is not an offense in any law--military or otherwise.

At this time I would like to ask the prosecution if he wants to take the specifications one at a time or all four.

PROSECUTOR: I am going to take them up all four.

DEFENSE: I will continue with Specification 2. With regard



to Specification 2, there is alleged that on or about the month of August 1942, Shigeru Sawada in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did direct a Japanese Military Tribunal appointed by him at Shanghai, China, to try by Court-Martial Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chas J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel, on false and fraudulent charges.

In brief, this specification states that this accused directed a tribunal to try these men on false and fraudulent charges. As I have just stated the trial of a prisoner of war is not wrong. They are subject to trial as is anyone else. Therefore, that part of the specification stating that he did direct a trial is not an offense. The only offense that could be in there is a "false and fraudulent charges" - the last words in the specification.

For the purpose of argument I might assume that if the accused was charged with knowingly and wilfully directing the false and fraudulent charges, it might be an offense, perhaps a violation of the Laws of War. It is not so alleged. It is merely stated that he directed a trial and there is no statement whatsoever that it was knowingly done. It could have been quite incidentally done. It could have been done clearly without any knowledge on his part, any suspicion on his part. It is not alleged that it was done for the purpose or upon knowledge or any connecting link there to make it wrongful. In this case, I wonder if General Vandenberg has ever seen these charges. I doubt if he has. Can we say, if the charges were false, that he is a war criminal? I don't think it necessarily follows that the charges happen to be false or fraudulent; that the person who appointed the court is a war criminal.

In regard to Specification 3, there it is stated that on or about the month of August 1942 and the month of October 1942, a Japanese Military Tribunal constituted and appointed by Shigeru Sawada, in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did at Shanghai, China, try Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chas J. Nielsen, Lieutenant Robert J. Meder and Corporal Jacob de Shazer, United States Army Personnel and Prisoners of War, upon false and fraudulent evidence in the said Military Tribunal appointed as aforesaid, and did sentence the above named United States Military Personnel to death all under the authority of the said Shigeru Sawada in his official capacity as Commanding General of the Japanese Imperial 13th Expeditionary Army in China.

In brief, this specification states that a tribunal appointed by this accused tried these fliers and sentenced them to death upon evidence that was false and fraudulent as alleged under the authority of the accused as commanding general. There is no statement in here the accused caused this act; merely the tribunal did. The tribunal did the whole thing. They don't tie it in with the accused.

The prosecution is going to bring up that this was a command function; the responsibility of command makes him a guarantor of what evidence the tribunal is going to consider. This command function was raised in the Yamashita case and other cases.



The course of conduct, several hundred atrocities, they inferred upon him by virtue of his command. To try to compare that situation to this is going pretty far. Here is an isolated act.

With regard to Specification 5, it is stated that between the months of August 1942 and October 1942, Shigeru Sawada as Commanding General of the Japanese Imperial 13th Expeditionary Army in China, did have the power to commute, remit and revoke the sentence of the said Japanese Military Tribunal imposed upon Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz, Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen, Lieutenant Robert J. Heder and Corporal Jacob de Shazer, United States Army personnel and Prisoners of War, and did knowingly and wilfully fail to take such action, causing the unlawful death of Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow, Sergeant Harold A. Spatz and Lieutenant Robert J. Heder, and unlawfully causing Lieutenant Robert L. Hite, Lieutenant George Barr, Lieutenant Chase J. Nielsen and Corporal Jacob de Shazer to be sentenced to life imprisonment as war criminals.

In brief this states that having the power to commute, remit the sentence of the tribunal, he failed to do it, and in failing to do it caused the unlawful death and unlawful confinement of these American fliers.

Our motion here is based upon the similar argument as regards the two previous specifications, with this limitation: They have used in this specification the word "unlawful"; "causing the unlawful death"; and the "unlawful sentence to life imprisonment". The word unlawful might save that specification. I am not convinced in my own mind as to this specification being as effective as the others because they did use the word unlawful.

I would like to point out what I think the prosecution has done. General Sawada, according to the charge, appointed a commission which tried these men on false and fraudulent evidence and they got the death sentence out of the commission. He actually did about one act. They have tried to make five specifications out of it, and the act wasn't broad enough to cover five specifications. They stretched it too thin. It is like I charge a man with murder. Murder requires that a person be killed; the killing be premeditated; intent to kill. It has various elements. They have taken each element and said in Specification 1 that I killed the person; Specification 2, I had premeditation; Specification 3, I had intent to kill. That is not sufficient, because they are not a complete offense. That, I am afraid, is what the prosecution has done here. They have stretched one offense into five specifications. I think they have stretched it too thin.

For that reason, on behalf of this accused, we have moved to dismiss Specifications 1, 2, 3 and 5--failure to state a complete offense under the Laws of War.

PROSECUTOR: In answer to the argument made by the counsel for the defense, Prosecution requests this court to deny the motion on the following grounds:

If the court will note, the charge against Shigeru Sawada as set forth in the Charge, and more specifically, in the specifications, states that on or about the month of August 1942, General Sawada in his official capacity as Commanding General of



the Japanese Imperial 13th Expeditionary Army in China, while a state of war existed, did knowingly and unlawfully and willingly, by his official acts, cause these particular war prisoners, American military personnel, to be denied the status of prisoners of war, and tried by tribunal in violation of the Laws and Customs of War.

In drafting the specifications to that charge, it was up to the prosecution to advise the accused with what he is charged. The prosecution attempted in the specifications to fully advise this accused by specific acts fitting the charge he is charged with so he would be in shame to defend himself before this military commission.

The first specification, in substance, charges General Sawada with knowingly and wilfully appointing this tribunal before which these Americans were tried and by referring them to the military tribunal he has, we think, denied them the status of prisoners of war.

We admit that General Sawada had a right to appoint a military commission as a commanding general of the army, so we could not say he unlawfully appointed a commission. But that is the first step to advise General Sawada that we think he violated the Laws of War, so we start out with the first specification and state that he did appoint this military commission which backs up the charge we have against him.

In the second specification we state that he referred the case against these men to that commission based on false and fraudulent charges. That is, I submit, in violation of the Laws of War to refer any case to a military commission against a prisoner of war or any other person on false and fraudulent charges.

In the third specification we state that the tribunal heard these charges on false and fraudulent evidence which was appointed by General Sawada, under his command authority, and did sentence these military persons to death all under the authority of Sawada because he appointed the Commission. That is part of the authority of the command of the commanding general. The commission, acting for him under his name, sentenced these boys to death. That goes along with what Sawada is charged with so he will be able to prepare his defense.

In the fifth specification we go ahead and advise Sawada that during the month of August and October he was then Commanding General of the Army and had the power to commute or remit the sentence. He decided not to use that authority, and caused four of these boys to be unlawfully put to death.

I do not think these specifications do not allege the violation of war. The charge is short as all charges are. It advises him in substance what we are charging him with. We went through each specification and tried to tell him what he did that we think is in violation of the Laws of War.

Sections 134, 135 and 136 of the Laws of Warfare, as to the treatment of war prisoners sets forth certain things that are in violation of the Laws of War. It says in Section 134, "The Right to Defend," that no prisoner of war will be sentenced without having an opportunity to defend himself. No prisoner may be compelled to commit himself guilty of the act with which he is accused. Section 135 states he is entitled to the right



of counsel, the right to have the evidence interpreted to him. Section 136 sets forth the pronouncement of the sentence against the prisoners of war. We submit there are other violations of the Rules of Warfare not set forth in the manual for the Rules of Land Warfare. The whole scheme is that we have tried to advise the defendant by all of his acts that these acts were the things that brought about the death of those men and that he violated the Rules of Warfare.

For these reasons I request the Commission to deny the Motion. If there is any way we can explain to General Sawada more specifically what he is charged with we would be glad to do it, but we believe he is sufficiently advised by these specifications to be able to defend himself before this Commission.

COLONEL MC REYNOLDS: I would like to have the prosecution tell us in what way Specification 1 is a violation - the mere appointment of the tribunal?

PROSECUTOR: The prosecution is of the opinion that when the accused in this case appointed this military tribunal for the purpose of trying these men he at that time denied them the status of prisoners of war and tried them as war criminals, and these men were entitled to be treated as prisoners of war, we contend. They were captured prisoners. They had no right to be tried by any one. They did no wrong. We think the appointment of the commission for that trial denied them the status of prisoners of war and put them in the class of war criminals. That specification is in there to try to show, as I tried to explain to the Commission, the various steps he did which led up to the death of these men which were tried and convicted under his command for which he was responsible because he was commanding general of the army.

COLONEL MC REYNOLDS: As prisoners of war, if they would commit any alleged crime in that capacity, --

PROSECUTOR: They hadn't committed any crime as prisoners of war.

COLONEL MC REYNOLDS: (continuing) They could have been tried.

PROSECUTOR: That is right.

COLONEL MC REYNOLDS: I would like to ask the prosecution if he considers it would weaken his case and does he object to the combining of Specifications 1 and 2?

PROSECUTOR: I don't think it would hurt or help the case. The first specification is there, as I have stated, to give him the background of everything we think he did that led up to the death of these men.

COLONEL MC REYNOLDS: I should like to ask another question of the prosecution with respect to Specification 5. Are you there contending that because General Sawada did not commute the sentences that he did not properly act upon the records? Are you asking us to review the record to determine what he should have done?

PROSECUTOR: You have to do that after you pass on the evidence

COLONEL MC REYNOLDS: The mere fact that he did not commute



or remit the sentence itself would not be a war crime, would it?

PROSECUTOR: I think so, if he had the authority to remit the sentence, and should have commuted or remitted the sentence which we think we can show, then he has caused the death of these men unlawfully, which is a war crime.

COLONEL MC REYNOLDS: You want us to pass upon the record of that trial and say that that record indicated that General Sawada should have commuted the sentence.

PROSECUTOR: That is correct.

COLONEL MC REYNOLDS: Although the Commission is of the opinion that Specification 1 could probably have been written much more understandable and brought out something more definite, it is rather weak, and could possibly have been combined with Specification 2, the Motion to dismiss Specifications 1, 2, 3 and 5 will be denied.

DEFENSE: If the Commission please, we have one more short motion filed on behalf of Okada Ryuhei and a similar motion on behalf of Wako Yusui. With the permission of the court I would like to argue them both together as they are identical.

I will now read the Motions.

(Whereupon the defense counsel read the Motion for a Bill of Particulars on behalf of Okada Ryuhei, which is attached, marked Transcript Exhibit No. 19, and Motion for a Bill of Particulars on behalf of Wako Yusui which is attached, marked Transcript Exhibit No. 20.)



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION ) UNITED STATES OF AMERICA  
CONVENED BY AUTHORITY OF )  
THE COMMANDING GENERAL ) VS  
UNITED STATES FORCES )  
CHINA THEATER ) OKADA RYUHEI

MOTION FOR A BILL OF PARTICULARS

Comes now the accused, Okada Ryuhei, and moves this commission for a bill of particulars to the specification against this accused, by setting forth the nature of the "certain charges" that this accused is charged with having adjudged against Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow et al.

/s/ (In Japanese Characters)  
/t/ OKADA RYUHEI

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE,  
Lt Col., AC,  
Defense Counsel.

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE, Lt Col AC,  
Defense Counsel.



GENERAL HEADQUARTERS  
UNITED STATES FORCES, CHINA THEATER

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BEFORE A MILITARY COMMISSION )	UNITED STATES OF AMERICA
CONVENED BY AUTHORITY OF )	
THE COMMANDING GENERAL, )	VS
UNITED STATES FORCES )	
CHINA THEATER )	WAKO YUSEI

MOTION FOR A BILL OF PARTICULARS

Comes now the accused, Wako Yusel, and moves this commission for a bill of particulars to the specification against this accused, by setting forth the nature of the "certain charges" that this accused is charged with having adjudged against Lieutenant Dean E. Hallmark, Lieutenant William G. Farrow et al.

/s/ Wako Yusel  
/t/ WAKO YUSEI

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE,  
Lt Col., AC,  
Defense Counsel.

/s/ Charles R. Fellows  
/t/ CHARLES R. FELLOWS,  
Captain, JAGD,  
Asst Def. Counsel.

I hereby Certify that I served a copy hereof on Lt Col John H. Hendren, Jr. Chief Prosecutor of this Commission on 26 February 1946.

/s/ Edmund J. Bodine  
/t/ EDMUND J. BODINE  
Lt Col AC,  
Defense Counsel.



DEFENSE: The specifications against Yusei and Ryuhei are identical. It is alleged in the specification that they prosecuted and adjudged without a fair trial certain charges against these fliers. I think I know what those charges are because prosecution has been considerate enough to give us most of the statements that have been taken. But on behalf of these accused, I would like to know what those charges are. The rights of the accused as read to the accused today say they are entitled to a copy of the charges and specifications, and "that the charges be so worded as clearly to apprise the accused of each offense charged." It can make a lot of difference what the trial concerned on which these people were supposed to be judges. I think I know. I think they are entitled to have it in the record in advance so we can prepare a defense as to those particular alleged charges that they are supposed to have adjudged these people guilty of without a fair trial. In other words, if it is what I think it is they are trying these men for, they can put charges of indiscriminate bombings, indiscriminate strafings; that is sufficient.

We are now asking the prosecution by means of this motion for this Bill of Particulars to tell us what the certain charges are that they are accusing Yusei and Ryuhei of trying these fliers for.

PROSECUTOR: May it please the Commission, this specification backs up the charge against these men. It ties the specification and charge down to the month of August 1942 and states to these men specifically the names of men they have tried and what happened at that trial. We think that is sufficient. We were not able to get copies of the charges under which these men were tried. We have never been able to find the record of trial of this case. It must have been burned. We could, I assume, go ahead and tell them what we think the men were tried for; that we don't think they violated any laws of war; that we think these charges were just trumped up charges so that anything we would put in there would be purely speculation. These men are in here; they know what month they tried them; the names of the men; they remember that. We believe they were sufficiently advised by this specification to know what they are charged with doing.

The gist of the charge is that we charge them with adjudging these charges without affording the prisoners a fair hearing of trial and affording them the right to counsel, the translation of the proceedings into English and an opportunity to defend themselves, and did sentence these men to death. That is the gist of the offense. The offense is the violation of the Laws of War by not giving them counsel, interpretation of the proceedings into their language, and not affording them an opportunity to defend themselves.

We do not oppose to giving the defense what we think they are charged with. We have no record of the trial. I think it is in the province of these defendants here; if they know what they are charged with, that is sufficient. We do not object to giving a Bill of Particulars of what we can, but we can't give anything that is absolutely right. I believe those two defendants can defend themselves of the charge without a Bill of Particulars and request the motion be denied.

DEFENSE: If the Commission please, the reason why we think it is important to know what the charges were is that if prosecution doesn't have them he can't give them, it is an unfair trial.



The requirements to try a prisoner of war are different from the requirements of trying a war criminal. If these men were charged with being war criminals, they are not entitled to all the safeguards they would be entitled to as prisoners of war. I want to add that in answer to the prosecution's statements, we do have all the information we need for defense; that one point is lacking, that is all.

PROSECUTOR: I might add further, we have given the defense counsel copies of everything we have. We gave it to them on the 15th day of February; copies of every statement we have taken; copies of the statements we have taken from the accused. We want the record to show that they have had that opportunity. They have everything we have. Is that correct, you have everything we have?

DEFENSE: Yes.

COLONEL MC REYNOLDS: The motion for the Bill of Particulars relative to Wako Yusei is denied, and the Motion for the Bill of Particulars relative to Okada Ryuhei is denied.

PROSECUTOR: Does the defense have any further motions?

DEFENSE: No further motions.

COLONEL MC REYNOLDS: Are the accused now ready to enter their pleas?

DEFENSE: The accused are now ready to enter their pleas..

PROSECUTOR: I have nothing further.

DEFENSE: I have nothing further.

COLONEL MC REYNOLDS: At this time, Sawada Shigeru, Okada Ryuhei, Wako Yusei and Tatsuda Sotojiro, the Commission will hear your separate pleas to the Charges and Specifications which pertain to you and which have been read to you. You may at this time plead 'Guilty' or 'Not Guilty'. In the event you fail to plead, a plea of 'Not Guilty' will be entered on your behalf upon the record.

DEFENSE: The accused plea as follows: (Through Interpreter M. Kumashiro.)

SAWADA SHIGERU: He is convinced he is innocent.

OKADA RYUHEI: He is also convinced he is innocent.

WAKO YUSEI: He is convinced also he is innocent.

TATSUDA SOTOJIRO: He is deeply convinced himself to be innocent.

COLONEL MC REYNOLDS: Do the prosecution and defense counsel have any recommendation to make as to the time for trial?

PROSECUTOR: Since the defense counsel are going to Japan tomorrow weather permitting for four or five days, I suggest the date of trial as March 11, a week from next Monday. I would like to have it understood that if they should be held up



in Japan, we can advise the Commission so that we can set the matter over a day or two, but I'd like to get started as soon as possible.

COLONEL MC REYNOLDS: Do the prosecution or the accused have any request to make as to any other pertinent matter?

PROSECUTOR: No, sir.

DEFENSE: No.

COLONEL MC REYNOLDS: Are there any additional matters to be considered at this time?

PROSECUTOR: None.

COLONEL MC REYNOLDS: There being no additional matters to be considered at this time, the Commission will now recess and will be reconvened on 11 March 1946 at 0900 hours at Ward Road Jail, Shanghai, China, or on such other date, or at such other place as the Presiding Officer may hereafter determine, for the purpose of proceeding with the trial of Sawada Shigeru, Okada Ryuhei, Wako Yusei and Tatsuda Sotojiro.

(Whereupon, the Commission adjourned at 1235 hours on 27 February 1946.)

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1-1 11 18/3 AM

MORNING SESSION

... Pursuant to adjournment, the Commission reconvened at 0900 hours, 18 March 1946 ...

COLONEL McREYNOLDS: The Commission is in session. (0900 hours)

PROSECUTOR: If it please the Commission we would like to have the record show that all the members of the Commission are present; all of the personnel of the prosecution; all of the accused are present; two members of the defense counsel have not arrived at this time but will be here shortly; the interpreting staff, except Mr. Remidios who is in the hospital, and the court reporter are present in court. At the last session of the Commission the Commission was adjourned until 11 March 1946. The Commission was further adjourned by order of the Commission until this date. I would like to offer at this time, for the record, these two adjournments signed by the President of the Commission.

COLONEL McREYNOLDS: They will be received.

(Documents received for record).

MILITARY COMMISSION  
CONVENED BY THE  
AUTHORITY OF THE COMMANDING GENERAL  
UNITED STATES ARMY FORCES, CHINA THEATER

IN THE MATTER OF

) UNITED STATES OF AMERICA  
)  
) VS  
)  
) HIGERU SANADA, TATSUTA  
) SOTOJIRO, TAKO YUSUJI and  
) OKADA RYUHEI

ADJOURNMENT OF PROCEEDINGS

On 27 February 1946, the Military Commission convened by Paragraph 2, Special Order No. 42, Headquarters, United States Forces, China Theater, dated 16 February 1946, was recessed until 0900 hours 11 March 1946. As Presiding Officer of the Military Commission the proceedings with reference to the trial of the above named accused is further recessed for the purpose of granting additional time to the defense for preparation until 0900 hours on 14 March 1946, and will meet on that date at Ward No. 6 Jail, Shanghai, China, or on such other date as the Presiding Officer may hereafter direct and determine.

The Attorney for the Prosecution, Lt Col John H. Hendren, Jr., will advise all parties concerned relative to this further adjournment.

/s/ Edwin H. McReynolds  
/t/ EDWIN H. McREYNOLDS,  
Colonel,  
President.



1-3 m 18/3 AM

DEFENSE: Defense is satisfied.

PROSECUTOR: I wish to announce that two members of the defense counsel who were not here for the opening have arrived. Let the record so state.

In the last session when the pleas were entered by the accused, page 32 of the record, the accused entered pleas through the third person. In order that there will be no ambiguity in the record, we would like to note that pleas of "Not Guilty" were entered for each of the accused.

It is now time to make the opening statement for the prosecution. The defense will be allowed to make an opening statement if they so choose. The interpreter will please tell the accused that their pleas have been entered as "Not Guilty".

(Hereupon Captain Hamm translated all that had transpired, including the fact that pleas of "Not Guilty" had been entered for each of the accused.)

DEFENSE: At this time there is additional counsel for the accused. He has just appeared and defense would like to introduce to the Commission, Mr. Shinji Soniya, who has come from Tokyo to assist in the defense.

PROSECUTOR: We would like to have the interpreter take down the opening statement as it is given and at the close of the opening statement he can give it back to the accused. Will that be satisfactory?

CAPTAIN HAHM: Yes.

PROSECUTOR: Gentlemen, the provable facts in this case of the United States versus Shigeru Sawada and others will show that on the 18th day of April 1942, sixteen B type aircraft took off from the aircraft carrier "Hornet" at a point approximately 700 miles off the coast of Japan, at sea. The purpose was to bomb certain objectives at Nagoya, Osaka and Tokyo. This mission was completed and only two of the crews involved in that mission are involved in this case. These are the crews of ship number 6, and ship number 16, in the order of take-off from the carrier "Hornet". These two made their bomb raids and then started back intending to make a landing at a point known as Chuchow, China. Due to lack of gasoline, plane No. 6 crashed at a place known as Ningpo. The survivors of that ship were Lieutenant Hallmark, Lieutenant Heder, Lieutenant Nielsen. Two of the crew of that ship were killed in the crash. The three survivors swam ashore and were later captured by the Japanese somewhere north of Shanghai. The other ship took off, bombed its objectives and because of lack of gasoline bailed out near Nanchang, China. This crew was composed of Farrow, Barr, Hite, Spatz and DeShazer.

The evidence will show that soon after these men were captured this latter crew were taken to Tokyo where they were questioned. The other three, the first crew, were brought to Shanghai, and evidence will show the treatment they received prior to being taken to Tokyo for questioning. Evidence will show they were kept in Tokyo approximately fifty-six days and kept in solitary confinement. In the latter part of 1942 the eight fliers were brought to Shanghai and entered the Bridge House jail. On August 28th of that year these prisoners were tried by court-martial at a place near Kiangwan. On that court-martial were two of the defendants here today, Ryahei and



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Hako. The evidence will show that Lieutenant General Sawada was the Commanding General of the court-martial before whom these men were tried. The evidence will show that Major Hata was the prosecutor who later died in Japan and that the senior member of the court-martial died in Kiangwan Island near Java, recently. That was Lieutenant Colonel Nakajo Chujo. The evidence will show that Captain Tatsuta was warden of the Kiangwan prison where the prisoners were held and later participated in the execution of the fliers. Evidence will show that Lieutenant Hallmark, one of the fliers, attended the supposed trial on a stretcher and later was returned to Bridge House Jail until on or about 14 October 1942 when he too was brought out to Kiangwan. Evidence will show that these men were all sentenced to death by military court-martial and that the sentences of Captain Nielson, Meder, Barr, DeShazer and Hite were commuted to life imprisonment and that on the 15th of October the sentences of death were carried out as to the other three, Hallmark, Farrow and Spatz. Evidence will show that they were kept there until they were taken to Nanking and at that prison Lieutenant Meder died.

This, gentlemen, is briefly the evidence that will be offered. I have not gone into it in detail at this time but that will be the evidence that will be offered in detail as to the treatment these men received.

Does the defense desire to make an opening statement at this time?

DEFENSE: The defense does not desire to make an opening statement.

PROSECUTOR: The prosecution would like to offer at this time a photostatic copy of the correspondence from the State Department of the United States and of the American Legation at Bern, Switzerland and a reply of the Japanese Government relative to the treatment of prisoners of war, and would like to read it into the record. I would like to offer that as Prosecution's Exhibit A, will it be admitted?

(Document marked Prosecution's Exhibit "A")

DEFENSE: No objection.

COLONEL McREYNOLDS: Prosecution's Exhibit "A" received.

(Whereupon the prosecutor read Prosecution's Exhibit "A" for the record.)

Washington  
December 18, 1941

AMERICAN LEGATION  
BERN  
RUSH 331, eighteenth.  
AMERICAN INTERESTS

Please request the Swiss Government through its representative at Tokyo to make a communication in the following sense to the Japanese Government:

QUOTE It is the intention of the Government of the United States as a party to the Geneva Prisoner of War Convention and the Geneva Red Cross Convention, both of July 27, 1929, to apply the provisions of those conventions.

It is, furthermore, the intention of the Government of the United States to apply the provisions of the Geneva Prisoner



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of War Convention to any civilian enemy aliens that may be interned, in so far as the provisions of that convention may be adaptable thereto.

Although the Japanese Government is a signatory of the above conventions, it is understood not to have ratified the Geneva Prisoner of War Convention. The Government of the United States nevertheless hopes that the Japanese Government will apply the provisions of both conventions reciprocally in the above sense.

The Government of the United States would appreciate receiving an expression of the intentions of the Japanese Government in this respect. UNQUOTE

QUOTE

BERN

Bern

Dated February 4, 1942

Recd. 2:24 P.M.

Secretary of State  
Washington  
398, fourth.  
AMERICAN INTERESTS, JAPAN

Reference Department's 331, December 18. Swiss Minister, Tokyo, telegraphs January 30 as follows "Japanese Government has informed me: 'first. Japan is strictly observing Geneva Red Cross Convention as a signatory state. Second. Although not bound by the Convention relative treatment prisoners of war Japan will apply mutatis mutandis provisions of that Convention to American prisoners of war in its power.'"

QUOTE

"TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I certify that the documents hereunto annexed and enumerated the attached list, are true copies of the texts of the original documents in the files of the Department of State.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Department of State to be affixed at the City of Washington, in the District of Columbia, this 30th day of November, 1945.

(SEAL OF THE  
DEPARTMENT  
OF STATE)

/s/ James F. Byrnes  
Secretary of State  
of the United States of America."



1-6 m 18/3 AM

PROSECUTOR: The prosecution will call as its first witness,  
Captain Nielsen.

(S/Sgt Tatsuki Arita interpreting.)

CHASE J. NIELSEN

called as a witness on behalf of the Prosecution, being first duly sworn,  
was examined and testified as follows:

DIRECT EXAMINATION

- Q (By Lt Col Hendren) Please state your name and residence.  
A Chase Jay Nielsen, on temporary duty in the China Theater.
- Q Are you a member of the United States military service?  
A Yes sir, I am.
- Q State your citizenship and the date of your birth.  
A I am an American citizen. The date of my birth is January 14, 1917.
- Q When did you enter the service of the United States Army?  
A November 1, 1940.
- Q At what place did you enter the service?  
A At Barksdale Field, Louisiana.
- Q What training did you receive in the Army after you reported for duty?  
A I received cadet training in aerial navigation.
- Q Where did you receive that training?  
A At Barksdale Field.
- Q Where did you next serve after leaving Barksdale Field?  
A I was transferred from Barksdale Field to McCord Field, Tacoma, Washington.
- Q To what bomb group were you assigned at that field?  
A I was assigned to the 17th Bombardment Group.
- Q Did you receive a commission as a commissioned officer at that time?  
A I was commissioned at McCord Field.
- Q What was the date of your commission?  
A June 25, 1941.
- Q State briefly what places you served after that date.  
A From there I went to Phelps Field; then to Pendleton Oregon, from there to Portland Oregon. I was there when the war started.
- Q What date were you at Portland?  
A We were transferred to Portland when the war started.
- Q What war started on that date?  
A The war between America and Japan.
- Q What date was that?  
A December 7, 1942.
- Q What happened to the 17th Bombardment Group, to which you were assigned on or about that date?  
A We were assigned to shore patrol.



1-7 m 18/3 AM

- Q How long did the 17th Bombardment Group stay on patrol at Portland?  
A Until approximately the 1st of February, 1942.
- Q Where did the 17th Bombardment Group go on the 1st of February?  
A We were transferred back to Pendleton Oregon in preparation to leave for South Carolina.
- Q When you answered the question relative to the date the war started, you said 1942, is that correct?  
A No, it was 1941.
- Q What happened to the 17th Bombardment Group after it arrived in South Carolina?  
A Well, the group was split up there as volunteers were asked for, for a mission into action.
- Q Tell the Commission what happened when volunteers were requested for the mission.  
A Well, the Commanding Officer came in and asked for volunteers for a mission into action and when we asked what the mission was he said he couldn't tell us any more than it was a mission into action and that was all.
- Q Did you volunteer for the mission?  
A Yes, I volunteered.
- Q What was your rating in the air corps at that time?  
A I was a second lieutenant.
- Q What type of duties did you do?  
A I was assigned to the crew as an aerial navigator.
- Q How many men volunteered for the mission?  
A Well I don't know the exact number but it was most of the group.
- Q How many men were actually assigned to the mission, approximately?  
A Approximately 120 men were assigned to the mission.
- Q Where was the mission sent for training after leaving South Carolina?  
A We were sent from there to Hegeland Field, Florida.
- Q Were you told when you reached Hegeland Field, Florida, what the mission would be?  
A No, we were not told any more about the mission.
- Q What training did you receive at Hegeland Field for the mission?  
A At Hegeland Field our training consisted of short take-offs, night bombing, night navigation, and just general all around work to see that we could operate at night and determine how accurate we were.
- Q Were you told at that time how long a mission it would be?  
A We were told the mission would be approximately a two thousand mile flight.
- Q Were you assigned to a crew at that time?  
A Yes, crews were made up and assigned to an airplane that would fly on a mission together.
- Q Who were the members of your crew?  
A Lieutenant Hallmark, Lieutenant Leder, myself, Corporal Fitzmorris and Corporal Dieter.



1-8 m 18/3 AM

- Q What were your duties on the crew?  
A I was navigator.
- Q What were the duties of the other members?  
A Hallmark was pilot; Meder co-pilot; Fitzmorris was gunner and Dieter was bombardier.
- Q How long were you stationed at Hegeland Field?  
A We were there approximately twenty-five days.
- Q To what type of aircraft were you assigned?  
A B-25, medium bomber.
- Q Did it have any special equipment or were alterations made to the bomber?  
A They had taken out the turret and gun at the bottom to save weight and sacrificed extra gas and had that bottom taken out to save an extra gunner.
- Q How many planes were assigned to the mission?  
A Sixteen ships were assigned to the mission.
- Q Who was the Commanding Officer of the mission?  
A Lieutenant General Doolittle, who was then a Colonel.
- Q Where did the mission go after they left Hegeland Field.  
A From there we flew over to Alameda.
- Q What state?  
A California.
- Q What did you do after you reached Alameda?  
A At Alameda we were ordered aboard the Hornet.
- Q Was the Hornet an American aircraft carrier?  
A Yes sir.
- Q On what date was it that you loaded on the Hornet?  
A April 1, 1942.
- Q After you arrived in Alameda and your planes were placed on the Hornet, were you told where your mission would be?  
A We knew at the time where we were going.
- Q When you arrived on the Hornet?  
A Yes.
- Q Where was the mission to be?  
A Well, the mission was to bomb Japan.
- Q When you arrived on the aircraft Hornet - the aircraft carrier Hornet, what instructions were given as to your flight?  
A Well, we were briefed quite thoroughly about the flight.
- Q Tell the Commission in detail all you can remember relative to the briefing for the flight and the targets that would be attacked. You might have to take this in short sentences so they can translate it as you go along.  
A **First we were given large target maps approximately that square. (indicating with his hands.)**
- Q Give the measurement in feet and inches.  
A I would say two and a half feet square.



- Q Continue.
- A These target maps only contained a target numbered; they only covered a small area, and they were detailed to a degree that showed all the highways, railroad tracks, the ground,--a very descriptive view of the target and surroundings, even showed dwelling houses and all buildings. We had maps of a smaller scale to use to navigate to get into Tokyo. We also had maps of other targets in case we couldn't get in on our objective, and we would have two or three other targets that we could bomb.
- Q Who briefed you on the targets?
- A General Doolittle.
- Q State specifically what conversation took place and what instructions were given as to bombing non-military targets.
- A We were definitely told not to bomb non-military objectives.
- Q What conversation took place either among the crews or with General Doolittle relative to bombing the Imperial Palace?
- A Well, when we found out we were going to bomb Tokyo, we cut a deck of cards to see who would get the Palace. We all wanted it.
- Q Why did the men each want to bomb the Imperial Palace?
- A Well there wasn't any of us had any love for the Japs. Besides that, we figured the Emperor was at the bottom of the whole thing and we wanted to get at the bottom of it all.
- Q Did General Doolittle hear about this conversation you men had?
- A Yes and he told us definitely to leave the Imperial Palace alone, to bomb objectives and nothing else.
- Q How long were you on the aircraft carrier "Hornet"?
- A Eighteen days.
- Q How much time each day was devoted to briefing on military targets?
- A Well, most all day.
- Q Was each crew given a definite target?
- A Each crew was given a definite target and alternate targets.
- Q What target or targets were assigned to your crew?
- A The target we had was steel mills in the northeastern portion of Tokyo, around the edge of the bay.
- Q Do you know Lieutenant Miller of the Navy?
- A Yes, I do.
- Q Was Lieutenant Miller on the mission on the Hornet?
- A He was instructor to help us with our short take-offs on the Hornet, although he didn't go on the mission to Tokyo.
- Q What instructions did you receive, if any, about what to do if you couldn't get into Tokyo?
- A We had alternate targets all about through the island.
- Q Was each member of each crew given definite instructions as to the target of that particular plane?
- A Yes, sir.
- Q Captain Nielsen, tell the Commission all that you remember of your instructions relative to the bombing or strafing of non-military targets.



1-10 m 18/3 AM

A Well, we were not to use our guns other than for our own protection and we were definitely told not to bomb non-military targets, -- non-military objectives.

Q Tell the Commission what instructions you were given as to what to do after you had bombed your target.

A Well, after we had bombed the target we were to clear out and fly to China, -- fly to Chuchow where gas had been flown in and we were to pick up enough to fly from there to West China.

Q What was the number of your airplane, if you remember?

A The number was 2298.

Q How large a bomb load was assigned to each airplane?

A Each airplane carried four 500 pound bombs.

Q How many bombs were assigned to the airplane you flew in?

A We carried four 500 pound bombs.

Q Was there an airplane piloted by Lieutenant Farrow on the mission?

A Yes, there was.

Q Do you know the members of Lieutenant Farrow's crew - their names?

A Yes, I do.

Q Tell the Commission the names of the members of the crew of that airplane.

A Lieutenant Farrow, pilot; Lieutenant Hite, co-pilot; Lieutenant Barr, navigator; Sergeant LeShazer, gunner and Sergeant Spatz, bombardier.

Q How long had you known the members of this crew?

A Well I had known them for approximately a year.

Q Do you know whether or not the members of this crew received similar instructions as to targets that the members of your crew received?

A Yes sir, all members received similar instructions.

Q What type of bombs were carried on your plane?

A We carried three demolition bombs and one incendiary.

Q Captain Nielsen,

COLONEL McREYNOLDS: Colonel Hendren, the commission will recess for fifteen minutes (1030 hours.)

(Whereupon the Commission at 1030 hours took a fifteen minute recess, reconvening at 1045 hours, at which time all of the members of the Commission, the accused, personnel of the prosecution and defense, the interpreting staff and the official reporter resumed their seats in the court room.)

COLONEL McREYNOLDS: The Commission is in session.

PROSECUTOR: At this time we remind the witness that he is still under oath, and we will resume our interrogation of Captain Nielsen.

Q Captain Nielsen, prior to the adjournment you had told the Commission about the arrangements for the flight up until the time the planes took off from the aircraft carrier. Now, on what date did the planes actually leave the carrier for the mission?



1-11 m 18/3 AM

A April 18, 1942.

Tell the Commission about the take-off from the carrier and any incidents that happened prior to take-off relative to your take-off.

A Well, we encountered a Japanese vessel while we were still seven hundred twenty miles out. We had been instructed that if we contacted or encountered any Japanese craft while we were not more than one thousand miles out, we would take-off and fly in but if we were more than one thousand miles out we would take off and fly back to Midway.

Q What time had the original take-off plan been planned?

A It had been planned that we would take off on the 18th just before dark.

Q What were the plans for the mission after you took off at that time?

A Well we would bomb Japan at night and arrive in China in the morning.

Q And did the ship's crew sight a Japanese craft prior to take-off time?

A Yes sir, they did.

Q Tell the Commission about that incident.

A Well this craft we sighted, we were afraid they would radio in so we were sent to "clear the deck" so the Hornet could get its own aircraft up.

Q What instructions were given relative to take-off after sighting the Japanese craft?

A We were instructed to bomb our targets and we figured we would have about enough gas to make China.

Q Did this require you to leave the aircraft carrier prior to the original take-off time?

A Yes, we were required to leave at nine o'clock in the morning, where we wouldn't have left until about seven that night.

Q How long was the flight deck on the aircraft carrier Hornet?

A Approximately seven hundred twenty (720) feet.

Q How much of the flight deck was available for take-off of B-25's?

A About four hundred feet.

Q Tell the Commission about the take-off of the planes from the aircraft carrier Hornet.

A Well the planes were lined up and each took off. We were on our own from there on out and in four minutes after take-off from the deck, we were in bombing formation for Tokyo.

Q What was the number, relative to take-off, of your airplane?

A We were number six.

Q About what time was it, approximately, when plane number six took off from the aircraft carrier?

A It was between eight forty-five and nine o'clock.

Q Do you know the number of the take-off plane of Lieutenant Farrow's plane?

A Lieutenant Farrow was number sixteen, the last plane.



1-12 m 18/3 AM

- Q Who was the leader of the flight when the planes took off from the carrier?  
A General Doolittle.
- Q Tell the Commission briefly about the flight after you left the carrier until you sighted the islands of Japan.  
A Tell the three ships flew a wide formation until we sighted the island, and when we sighted the island we pulled our formation into close formation.
- Q At what elevation did you fly from the carrier to the islands?  
A Approximately one hundred feet.
- Q What was the reason for flying at this altitude?  
A Through our test runs, our runs at Hegeland Field, we found out at that low altitude we got our lowest gas consumption.
- Q Did you meet any Japanese planes after you left the carrier?  
A We passed one Japanese patrol plane when we were forty-two minutes from the Hornet.
- Q After you sighted the islands, at what elevation did you fly?  
A We stayed at as low an elevation as we could until we came in on our target.
- Q Did you arrive at the islands at the approximate point you expected to arrive there from your instructions?  
A Yes we did. As a matter of fact we came in on Tokyo from direct flight.
- Q Did you encounter any Japanese anti-aircraft fire when you came over the islands, first entered the islands?  
A None until we entered Tokyo.
- Q Did you sight any enemy aircraft after you came in over the islands?  
A After we came in over the islands we sighted six Jap planes but they were flying at approximately ten thousand feet. I don't think they saw us at all.
- Q Had the other planes in the mission arrived at Tokyo ahead of you?  
A The other planes had arrived ahead of us.
- Q How did you know the other planes had arrived?  
A We could see some smoke from some of the fires that had been started where they had bombed.
- Q Approximately at what elevation was the airplane when it came over the City of Tokyo?  
A We were at fifteen hundred feet.
- Q How intense was the anti-aircraft fire when you arrived over the City of Tokyo?  
A It was quite intense. They had our elevation but that was all.
- Q Tell the Commission what happened relative to the bombing of your target.  
A Well, as we came over the island we pulled our formation into a tight echelon. We were all to bomb this row of steel mills which was approximately six hundred feet in width and two thousand feet in length.



1-13 m 18/3 AM

- Q At what point in the formation was your plane flying?  
A We were the last of the echelon.
- Q Do you know who the pilots were on the other two planes?  
A Yes, Captain Jones was in the lead and Lieutenant Lawson was second and our ship third.
- Q What did you observe when your plane came over the city? Did you see any of the points you had been briefed to bomb?  
A Yes sir, we did, all the way in.
- Q Explain to the Commission what you saw and what happened in the bombing run.  
A Well we levelled our formation off at 1500 feet as we approached the target. We had already arranged before we left the Hornet that Captain Jones would give us a signal and we would alternate the bombs so our bombs would be scattered throughout the area.
- Q I believe you stated that you had the signal to drop the bombs. Go on from there and explain what happened.  
A The bombs were dropped. I watched three or four of the first ones explode and the last three. We dropped our three and still had one bomb left and we turned to get out of the anti-aircraft fire because we were picking up all the fire that was turned on the lead ship. We made a second run on the target then.
- Q Did you observe where the bombs dropped?  
A Well, while we were in our bank, turning to get out of the fire, I saw our last three bombs explode right in the southern end of the steel mill.
- Q Did you observe where the bombs from the other two planes in that formation dropped?  
A Most of them, yes.
- Q Where did they drop?  
A They dropped down in the row of steel mills.
- Q You stated you made a second run over the target. Tell the Commission about that.  
A We circled, made our second run, dropped our last bomb and headed out over the bay.
- Q Did you observe where the last bomb dropped?  
A Yes sir, I did.
- Q Where then did that bomb drop?  
A Our last bomb was our incendiary and we scattered it all down through the steel mill area.
- Q Explain to the Commission what happens on this incendiary cluster when it is dropped.  
A It consists of 180 three pound thermite bombs, some of them frontward and some of them backward so when it drops it will spread out and from the altitude we were flying it would cover an area approximately 300 feet wide and 1600 feet long.
- Q What did you observe around the steel mill area where you dropped the bombs?  
A Well, Tokyo is quite a congested area and there are a lot of residences built right up around the area.



1-14 m 13/3 AM

Q You mean the area of the steel mill?  
A Yes.

DEFENSE: May I ask the Commission to have the witness answer the questions in his own words instead of being coached by the Prosecutor. It is a form of leading.

COLONEL MC RLYNOLDA: In other words, you feel that they are leading questions?

DEFENSE: No, they are not leading questions but let the witness answer the question in his own words instead of being lead.

PROSECUTOR: Do you have a particular question you object to? We will have it read back and rephrase it.

DEFENSE: No particular question. Just let the witness answer the questions himself instead of being coached - being led.

Q You stated in your answer a while ago you had some discussion about bombing the Imperial Palace. Did any of the bombs from your airplane drop in or near the Imperial Palace?  
A No.

Q State whether or not the bombs from your aircraft dropped on non-military targets?  
A Our bombs were all dropped at military objectives.

Q Now, when you came over the target how fast was your aircraft going?  
A We were flying at the rate of two hundred forty miles an hour.

Q What kind of a bombing sight was there in that aircraft?  
A Well we were using what we called the Mark Twain sight.

Q Explain to the Commission just what is a Mark Twain bomb sight.  
A Well there was one plate with graduations up here (indicating an upright plate with graduation markings along the side nearest the witness).

Q You will have to tell just what it is because we can't get your hand in the record to indicate it.  
A I don't know how to explain it.

Q Can you give a verbal description of it?  
A Well all it was, was a metal plate that stood up vertically and had graduations that marked elevation and there was a slide that rested on the graduations up and down this vertical plate (indicating a slide attached to the lower front end of the vertical plate and moving the end nearest the witness as though the slide were being inserted in slots along the back edge of the vertical plate.)

Q On the plate?  
A Yes.

Q And that slide worked up and down for the different elevations?  
A Yes.

Q Now was the bombardier on your ship trained in the use of this bomb sight?  
A Yes, we had been using it for a month and using it every day.



1-15 m 18/3 AM

Q How accurate was the bombardier on your ship with the bomb sight at an elevation of 1500 feet?  
A He was very accurate.

Q Captain Nielsen you stated that the three first bombs were demolition bombs?  
A They were demolition bombs, yes.

Q You stated that they dropped in the steel mill?  
A Yes sir.

Q I believe you further stated that the incendiary cluster was dropped over the steel mill -- on the steel mill.  
A Yes, that was dropped on the second run.

DEFENSE: If the Commission please, I don't believe the witness stated it was dropped on the steel mill. I believe it was in the area.

PROSECUTOR: We can fix that.

Q Where did the incendiary cluster drop?  
A On our second run over the steel mill area, as we released the bomb it was scattered all down through the steel mill area.

Q You stated you made a second run over the target. About how long were you over Tokyo on the first bombing run and the second bombing run?  
A We were over Tokyo approximately three minutes.

Q Captain, approximately what time did you arrive over the target?  
A At Tokyo at 12:30.

Q Was that Tokyo time?  
A That was Tokyo time.

Q Captain when you were over Tokyo did you sight any enemy aircraft?  
A Not over Tokyo.

Q Do you know whether or not the machine guns on your plane were fired while you were over Tokyo?  
A The machine guns on my plane were never fired.

Q Do you mean to tell the Commission that the guns were never fired from the time you left the aircraft carrier until you landed later?  
A Yes sir, they were never fired from the time we left the Hornet until we crashed.

Q Were you in a position in the airplane where you could observe whether or not the guns were being fired?  
A Yes sir, I was.

Q Was there a tail gun on your airplane?  
A No tail gun. We had one turret in the midsection with two 50 calibre guns in it and one turret with a thirty calibre in the nose.

Q At any time on the flight did your plane bomb any school houses, -- bomb or strafe any school houses?  
A No sir, we bombed steel mills and that was all.

Q On that flight did your plane bomb or strafe any churches?  
A No sir, we did not.



1-16 m 18/3 AM

Q On that flight did your plane bomb or strafe any hospitals?  
A No sir, it did not.

Q On that flight did your plane bomb or strafe any children?  
A No sir, we did not.

Q On that flight did your plane bomb or strafe any civilians?  
A All the only civilians we could have bombed would be the laborers working in the steel mill area.

Q After you made this bombing run, where did your plane fly to?  
A We flew out over the bay and continued on south for approximately one hundred miles.

Q What was the weather over Japan? Over Tokyo that day?  
A The sky was clear and the sun was shining.

Q Could you observe well the buildings of the city and the people in the streets of the city?  
A Yes sir, very easily.

Q When your plane left the City of Tokyo was it followed by any enemy aircraft?  
A No, it wasn't. The only enemy aircraft we sighted at all was the six planes we sighted when we came in over the island.

Q Tell the court what happened on your way from Japan to the China coast.  
A Well, as we were about one hundred miles out from the China coast, the weather started up. It was foggy and I would say approximately fifty miles out, the weather was zero.

Q Complete your answer. You stated about fifty miles out the weather was zero. Then what happened?  
A We continued to fly at the same altitude, between fifty and one hundred feet. We knew at a higher altitude we would have a head wind so we tried to stay under as long as we could.

Q Tell the Commission, then what happened?  
A Our intention was to stay under it as long as we could see water or ground and come in on the lower end of Hangchow Bay and fly south from there down to Chuchow.

INTERPRETER: Fly south?

A Yes, fly south down the river.

Q Go ahead and complete your answer.  
A We continued on and about a mile off the coast we ran out of gas and crash landed in the ocean.

Q Tell the Commission about the crash in the ocean.  
A Both motors cut out about the same time although the left motor did cut out first. The left wing hit the water first and severed the wing off right up close to the fuselage, and as the fuselage hit, it split open all the way down the bottom. The pilot was thrown from his chair right out through the windshield. The gunner was still in his turret, and went down. He said he thought he was about twenty fathoms deep but he finally got out. The bombardier was in the tunnel coming down from the bombardier section to the navigator's well. We all finally got out of the plane and got the life raft out. Our life raft wouldn't work and the bombardier



1-17 m 18/3 AM

and gunner were pretty badly beaten up.

Q What were the names of the bombardier and gunner?

A Dieter was the bombardier and Fitzmorris was the gunner.

Q How many of you actually got to the coast after the plane crashed?

A Three of us, Hallmark, Meder and myself.

Q What happened to Fitzmorris and Dieter?

A They were still alive when they got out of the plane but we tried to stay together and swim in but it was raining and ocean was rough and very dark and we finally got separated.

Q Did you later find out what happened to them?

A Yes the next morning when the three of us got together we went back to look for them and found their bodies on the shore. They had been so badly injured in the crash that they couldn't survive.

Q What were the names of the three survivors?

A Myself, Lieutenant Hallmark and Lieutenant Meder.

Q Were you able to save anything from the aircraft?

A Nothing other than the clothing we were wearing.

Q Were any of you three survivors injured in the landing?

A Well, Hallmark had some lacerations on his leg, and me and Meder had a few lacerations.

Q What happened to you the next day after the crash?

A Well after we finally got together there was a small Chinese village right there on the coast and there was a Chinese guerilla outfit garrisoned there. We went there.

Q And were you later picked up by the Japs?

A Well we were with this garrison for about three days. We tried to get over all the mountain passes but the Japs had guards or sentries on all of them and we couldn't make it over.

Q After the three day period what happened?

A We were trying to get some sampans rigged up to go down the coast but evidently the Japs heard or picked up some word we were there. About three hundred Jap soldiers marched in and searched through the place until they found us.

Q How serious were the injuries of Lieutenant Hallmark and Lieutenant Meder?

A Well they were so bad they couldn't walk--that is, walk well. They were pretty crippled up.

Q On what date were you captured, Captain?

A We were taken over by the Japs on April 21st.

Q What did the Japanese do with you after they captured you?

A Well we were loaded in coolie chairs and taken to the Japanese garrison.

(At this point Sgt. Morozumi took over the interpretations and relieved Sgt. Arita.)

Q After that happened what did the Japanese do?

A We were transferred from there by boat up to Shanghai.



1-18 m 13/3 AM

- Q How were you treated when they took you to Shanghai?  
A Well, our trip up by boat, three of us were kept in one small room. We were handcuffed and tied by the elbows and tied tight enough to cut off the circulation.
- Q How long were you kept bound in that fashion?  
A We were that way while we were transferred from one place to another but while we were on the boat our arms weren't tied although we were handcuffed and at night the three of us had our legs cuffed together.
- Q How many days did it take you to arrive at your next destination?  
A Well we were about four days coming up the coast from where the Japs picked us up until we came to Shanghai.
- Q Where did the Japs take you when you came to Shanghai?  
A Well I think we were taken out to the airport.
- Q Had Lieutenant Hallmark's and Lieutenant Meder's injuries been treated up to that time?  
A No, they had not.
- Q What happened after you got to the airport?  
A Well we arrived at the airport about four o'clock in the evening. We were put in individual cells and then I was taken out and questioned as to where I had been, where I had come from and what I was doing in China.
- Q Were you questioned by Japanese military personnel?  
A Yes, I was, they were all military personnel.
- Q Were you questioned through an interpreter?  
A Yes, we had two interpreters, both Japanese military personnel.
- Q Do you know what Japanese military organization the men belonged to that questioned you?  
A I don't know but I imagine they belonged to the outfit that was out at the airport at that time.

DEFENSE: If it please the Commission, we object to his imagination answer, in that what he imagines is not fact and therefore can have no weight here.

PROSECUTOR: I think the defense is correct.

COLONEL MC REYNOLDS: The Commission will weigh the evidence given and decide whether it is his imagination or a definite fact.

- Q What treatment did you receive while you were at the airport?  
A I was taken in and they started to question me as to where I came from and as to what I was doing in China and I merely gave them my name, rank and serial number.
- Q And then what happened?  
A Well, when I wouldn't tell them anything, they would kick me and slap me.
- Q Who slapped you? Were they military personnel?  
A I imagine they were. They had on uniforms.

DEFENSE: May the defense have continued objection to the answers in that they are based upon an imaginary place and --



1-19 m 18/3 AM

PROSECUTOR: An imaginary place?

DEFENSE: Yes, he mentioned by military personnel he imagined, and he said "I think it is near an airport". I think that is imagination.

PROSECUTOR: Well, we can clear that up.

Q Do you know where you were when you were being questioned? What city you were in?

A Yes, I know where I was. In Shanghai, at the airport.

Q What airport was it?

A At Kiangwan or the other one.

Q What other one are you speaking of?

A There are only two airports here. Kiangwan and I don't know the name of the other one.

Q Do you know whether they were military personnel?

A I know they were military personnel. They were wearing army uniforms and insignia and I think they belonged to the 13th Expeditionary Army in China.

DEFENSE: The defense renews its objection and asks the court to show a continued objection to all the questions.

COLONEL MC REYNOLDS: Put that in the record.

PROSECUTOR: What grounds do you object to the questions on, for the purpose of the record?

DEFENSE: The object on the grounds that we are in the record now to tie in the accused. We want the record to show the lack or failure to tie in these accused for two reasons. First, it doesn't show the accused are connected up with this and second the witness' statement is based upon what he knows to be an airport but doesn't know which one and he says they were dressed in military uniform and he thinks it is the 13th Army. We want to show the objection on that ground and show it is continuous throughout these questions.

PROSECUTOR: If the Commission, please, all these questions are to connect up with the accused. We had to start someplace and as we go along it will connect up with these accused. I believe the objection may be continuous as to the questions, but I believe it should be overruled.

COLONEL MC REYNOLDS: The objection of the defense is overruled at this time for the reason that the Commission will consider the weight of the evidence as given, whether it is a fact, or his imagination or belief.

Q How much sleep had you had from the time of the crash up until the time you just spoke of?

A Well they usually tell us to go to sleep about nine o'clock at night and wake us up about seven in the morning.

INTERPRETER (to Prosecutor) How much time did you say?

PROSECUTOR: How much sleep did you have from the time of the crash up until the time you just spoke of.



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Q What conditions did you have on the boat until you came up to where you landed in Shanghai?  
A The three of us were kept in the small room with a grass mat on the floor, something like the ones on here (indicating an ordinary Chinese grass matting which covered portions of the floor in the court room.) At night they gave us a blanket. Other than that there were no other accommodations in there.

Q What were you given to eat on the boat?

A EGGS, some sort of vegetable soup and some kind of pastry.

Q I believe you stated, Captain Nielsen, your hands were bound all this time.

A Yes sir, we were handcuffed.

PROSECUTOR: If the Commission, please, it is twelve o'clock. This is a good place for a break. Shall we adjourn until two o'clock?

COLONEL MC REYNOLDS: At this time the Commission will recess until two o'clock, this afternoon.

(Whereupon the Commission adjourned at 1202 hours to reconvene at 1400 hours, 18 March 1946.)



AFTERNOON SESSION

... Pursuant to adjournment, the Commission reconvened at 1400 hours on 18 March 1946 ...

COLONEL MC REYNOLDS: The Commission is in session.

PROSECUTOR: Let the record show that pursuant to the recess, the defendants, members of the prosecution, members of the defense, the reporter and the interpreters are present.

I'd like to recall Captain Nielsen to the stand.

Captain CHASE J. C. NIELSEN

recalled as a witness on behalf of the prosecution, having been reminded he was still under oath, was examined and testified as follows:

DIRECT EXAMINATION (Resumed)

Q (By Lt Col Hendren) Captain Nielsen, prior to recess, you had told the Commission that you were brought to an airport near Shanghai and were there questioned. We will proceed with the questioning from that point.

PROSECUTOR: If it please the Commission, the interpreters have requested that they interpret each question as it is given and then interpret the answer rather than interpret the question and answer together.

COLONEL MC REYNOLDS: That is agreeable with the Commission.

Q What time was it in the afternoon when you arrived at the airfield at Shanghai?

A It was five o'clock in the afternoon.

Q What treatment did you receive at the airfield?

A Well, we were questioned as to where we came from, what we were doing in China, and if we were American army personnel.

Q To what army did the questioners belong?

A They belonged to the Japanese 13th Expeditionary Army.

Q You stated that you had arrived in Shanghai. How do you know that the city was Shanghai?

A As the boat came onto dock we passed several buildings, one of them was the Shanghai Docking Company; one was the Shanghai Power Company, and several other buildings that had some Shanghai company written on them.

Q What treatment was given to you by the questioners at the airfield?

A Well, through the questioning, when I wouldn't answer any questions I was slapped and kicked around.

Q Explain to the Commission where you were slapped?

A I was slapped around the face and head very severely.

Q Who slapped you?

A Four of the Japanese guards that took me from the prison into the building.

Q You stated that you were kicked, where were you kicked - what part of your body?

A I was kicked on the shins.

Q Who kicked you?

A These same Japanese guards.



Q How hard did they kick you?

A Hard enough that I still have the scars today.

Q Captain Nielsen, would you stand out in front of the bench and show the Commission any scars that you have on your leg from the kicking?

A I certainly will.

(The witness showed the scars on his leg to the Commission.)

Q What questions would they ask you when they were giving you this physical treatment?

A They more or less wanted to find out where we came from.

Q What questions did they ask you I said?

A Well, where I had come from, if I was Army personnel, and what I was doing in China.

Q How many times would you estimate you were slapped on the head?

A At least 20 or 30 times.

Q Were you bound during this time?

A My hands were behind the chair and my legs were tied to the chair legs.

Q How hard were you slapped?

A Hard enough to make my head ring severely.

Q Did the questioners threaten you with any other treatment while you were being questioned?

A Yes, I was given several different types of torture.

Q Did the questioners tell you they would do anything to you if you did not answer the questions?

A Well, they said that we were captured and no one in America would know where we were and if anything happened to us we would just be listed as missing in action.

Q During this treatment did you answer their questions?

A All I gave them was my name, rank and serial number?

Q What other physical treatment was administered to you at that time?

A Well, I was given what they call the water cure.

Q Explain to the Commission what that was?

A Well, I was put on my back on the floor with my arms and legs stretched out, one guard holding each limb. The towel was wrapped around my face and put across my face and water was poured on. They poured water on this towel until I was almost unconscious from strangulation, then they would let up until I'd get my breath, then they'd start over again.

Q When you regained consciousness would they keep asking you questions?

A Yes, sir, they did.

Q How long did this treatment continue?

A About twenty minutes.

Q What was your sensation when they were pouring water on the towel, what did you physically feel?

A Well, I felt more or less like I was drowning, just gasping between life and death.

Q During the administration of this treatment did you answer their questions?

A No, I did not.



Q What further mistreatment was administered to you while this questioning was going on?

A Well, the guards then brought in a large bamboo pole about three inches in diameter, this was placed directly behind my knees, I was made to squat on the floor in this position (indicating squatting position) like a kneel.

PROSECUTOR: For the purpose of the record, I will describe the position the captain demonstrated as a squatting position.

Q Continue with your explanation.

A One guard had ahold of each of my arms, one other guard then placed his foot on my thigh and would jump up and down causing severe pain in your knees.

Q Explain to the Commission just the sensations you felt from this treatment?

A Well, it felt like my joints were coming apart but after about five minutes of that my knees were so numb I couldn't feel anything else.

Q During this time did the Japanese keep on questioning you?

A Yes, sir, they did.

Q What answers did you give them to their questions?

A I told them I had given them all the information I had---my name, rank and serial number.

Q How long did this treatment last with the bamboo pole behind your knees?

A This lasted about fifteen or twenty minutes.

Q Do you know what happened to the other two members of your crew who were with you?

A I didn't know at the time but talking to them later I found out they were given similar treatment. Hallmark said they put him on a stretcher and stretched him out until he felt like his limbs were coming apart.

Q Were any other threats made to you during the questioning?

A Well, by that time it was almost sundown. They said, well, if I won't talk they would take me out and I would be executed.

Q What else did they tell you? What did they tell you?

A I was then blindfolded and taken out.

Q Then what happened?

A Well, the pain in my legs I could hardly walk so one guard took ahold of me under each arm and we marched about three or four hundred feet down a gravel path.

Q What happened while you were marched down the gravel path?

A I was blindfolded. I couldn't see, but I could hear different groups of Japanese soldiers marching around in the area, they were drilling.

Q What else was said while you were marching there in the area?

A Well, after marching about 400 feet we stopped and as one of these squads marched up, they also stopped by us.

Q What was said or done at that time?

A Well, as they stopped I could hear the rifle butts hit the ground and I thought this was execution.

Q Then what happened?

A Well, after a short conference between several of the officers that was with me and whoever was marching the squad, the interpreter came back and he said, "We are Knights of the Bushido of the Order of the Rising Sun; we don't execute at sundown; we execute at sunrise."



- Q And then what happened?
- A Well, I was taken back to my cell and the interpreter said unless I had decided to talk by morning I would be executed by sunrise.
- Q Did anything happen to you while you were in your cell?
- A Well, the blindfold was taken off but I still kept the handcuffs.
- Q What else happened, if anything?
- A Well, I was given several vegetable sandwiches and a cup of coffee.
- Q Did anything else happen to you there in your cell?
- A One of the guards that had been in the room with me before, administering this punishment, came back out and there was a peg in the wall and I was suspended by my handcuffs from that peg so my toes would just barely touch the floor.
- Q How long were you left suspended in that position?
- A Well, that was about seven o'clock at night when I was suspended from the wall. After about three hours I lost consciousness. The next thing I could remember, the sun was just coming up and the guards were taking me down from the wall.
- Q Did the Japanese ask you any questions when they took you down from the wall?
- A I was not asked any questions.
- Q What was your physical condition when they took you down from the wall?
- A Well, my legs were still in great pain from the treatment the night before and when I let my arms down I thought they were both going to drop off.
- Q What other sensations did you have that you can explain to the court?
- A Well, from hanging up all night my arms were numb, my shoulders were numb, I was numb clear to the waist.
- Q Were you able to stand up after they took you down from the wall?
- A I was able to stand all right.
- Q What kind of furnishings were in that cell?
- A Two old dirty ragged blankets that were infested with all the vermins there is in China; latrine facilities was an open hole in the corner, had no lid on it, and the stench that came out of it was enough to put you to sleep.
- Q From the kicking that the guards administered to you were there any open sores on your legs?
- A Yes, sir, I had three open sores.
- Q Was any medical attention given to your sores on your legs?
- A No, no medical attention was given them.
- Q Do you know what treatment the other boys received during that night?
- A Well, I don't think they were molested during the night although they did receive about the same punishment I did in the afternoon.
- Q You stated that Lt. Hallmark told you he had been given the stretcher treatment. Could you explain that to the Commission?
- A From what he said, it was some sort of a mechanism that they put ropes around his wrists and around his ankles and it was operated with some sort of a lever but every time they move the lever this thing would stretch out.
- Q Did you see Lt. Hallmark the next morning?
- A Well, the next morning when I was taken into the building at the airport, Lt. Meder and Lt. Hallmark were in there.



- Q What did you observe when you saw them relative to their physical being?  
A Well, they looked like they had both be worked over. They didn't look too good.
- Q Captain Nielsen, where were you taken from the airport at Shanghai?  
A Well, the three of us were blindfolded, loaded aboard a plane and flown to Tokyo.
- Q Were you handcuffed and bound during that flight?  
A We were handcuffed, our hands in front tied about the elbows behind our back, and we were also tied to the seats.
- Q Did you experience any physical suffering during the flight?  
A Well, most of the suffering was from the treatment I had the day and the night before and then just the uncomfortableness of sitting in one position so long.
- Q How long did the flight last?  
A Somewhere between eight and nine hours.
- Q Did Japanese military personnel put you on board the plane?  
A Yes, sir, Japanese military personnel.
- Q Where did that airplane land after it left Shanghai?  
A Well, about an hour after we left here we stopped somewhere long enough to gas up, from there we continued on and landed at Atsugi Airport.
- Q Where were you taken after you arrived at the airport?  
A We were taken by automobile then to the military police headquarters in Tokyo.
- Q What date was that, Captain Nielsen, if you remember when you arrived in Tokyo?  
A We arrived in Tokyo about seven o'clock in the evening, April 25, 1942.
- Q Had you been permitted to shave or change your clothing or wash since the time you were captured by the Japanese?  
A No, sir.
- Q What condition was your clothing in at that time?  
A They weren't in very good condition. Some of them were torn up in the plane wreck, after our swim in the ocean we were all muddy and dirty.
- Q Had you picked up any vermin or lice while you were being held by the Japanese?  
A Yes, sir, we had.
- Q Were you kept bound and handcuffed during the trip into Tokyo?  
A We were blindfolded before we left Shanghai and we wore our handcuffs and were tied and continued to wear the blindfold until we were inside the military police headquarters.
- Q What was done with you after you arrived at the military police headquarters?  
A We were put in solitary confinement, and about 15 minutes we were taken out and started to be questioned again.
- Q Did you see any of the other members of the raid besides the members of your crew that night?  
A No, sir, I did not.
- Q What type of questions were asked you at that time?  
A We were asked where we came from, if we had bombed Tokyo the week before, if we were military personnel, if we had ever been stationed in China.



Q How long did this questioning continue?

A I was questioned until about four in the morning.

Q Was that the morning following the evening you arrived in Tokyo?

A Yes, sir, it was.

Q Who questioned you there in Tokyo?

A Personnel that belonged with the military police headquarters.

Q Was that Japanese personnel?

A Yes, it was Japanese personnel.

Q What were you given to eat while you were there that night and the next day?

A We were given some rice, it tasted like it was moldy, you couldn't eat it, and the soup or what you would call it they gave us, tasted so awful you couldn't eat that either.

Q Were you mistreated during that first night you were in Tokyo?

DEFENSE: If the Commission please, we make the same objection, but this time I think it is more obvious. We object on the ground that any mistreatment which took place in Tokyo can not and is not based upon the acts of any of these accused. These accused are alleged to have been here in China. And I might call the courts' attention to the fact that the only allegation in the specification or charges against these accused concerning their treatment is from the period August to October. All these acts take place prior to that period of time. We object to any evidence of mistreatment that takes place in April, and May, especially taking place in Tokyo. It is not attributable to these accused. We think it is prejudicial to our case.

PROSECUTOR: It has been contended by the accused in this case that these American prisoners made certain statements against their interests while they were in Tokyo which statements were later used against them in a court martial which was held here in China, therefore the prosecution believes that any treatment they received in Tokyo which might have a bearing on the questions there is admissible before this Commission and it is admissible to show any statements made by these men in Tokyo were purely involuntary statements and statements made, if any, because of mistreatment given to them while they were there. It is all part of the case of the trial of these men at a later date and part of the charges against these men on false and fraudulent evidence and what we contend were non-violations of the Law of War and therefore, if it please the Commission, this questioning in Tokyo, anything that happened to these men by the Japanese prior to their trial, or after their trial was over, is admissible for this Commission to determine the issues in this case.

DEFENSE: If the Commission please, we are getting the cart before the horse by putting in evidence of torture prior to any statements, but I think we have gone beyond the reasoning limit of what might have been done to cause any statements to have been made. We are going clear back to the time they were first captured to show any mistreatment. Our objection is conditioned on what the prosecution later on shows. We'd like for the record to show that we object to this evidence of mistreatment, except only so far as it goes to connect up with any confessions or commissions.

PROSECUTOR: May it please the Commission, the charges against the accused in this case charges them with treating these men as war criminals. It is the prosecution's contention that at no time while these men were prisoners did they violate any of the Rules of Warfare. The prosecution contends that in order for the Commission to decide the issues in this case they must have a complete picture of what happened to these men after they were captured until they were finally disposed of. We think this evidence is admissible.



COLONEL MC REYNOLDS: The objection by the defense is overruled. The Commission will hear the evidence.

DEFENSE: May we have the same understanding that the objection continues to all the questions of mistreatment in Tokyo as before?

COLONEL MC REYNOLDS: The Commission will hear the evidence and weigh the value of that evidence with reference to the time in connection with any of the charges and specifications, the date of those accusations pertaining to the accused.

DEFENSE: What I mean, rather than object to each question, in order to save objecting, we want it to be a continuous objection pertaining to that.

PROSECUTOR: We have no objection to that.

COLONEL MC REYNOLDS: It will be put in the record.

PROSECUTOR: The record will show an objection to each question asked.

Q I believe the question was, were you mistreated on the first night in Tokyo?

A Yes, I was.

Q What happened to you during this mistreatment?

A I was slapped about the head and face and kicked on the legs.

Q Were you bound in any way?

A Yes, my hands were kept behind the chair and my feet were tied to the legs.

Q How many persons took part in the questioning of you?

A Oh, there was three guards, one interpreter, and two reporters.

Q Where did they kick you and where did they slap you?

A Slapped me about the face and head, and kicked me on the shins.

Q How hard did they kick you and how hard did they slap you?

A They slapped me hard enough to start my head aching and they kicked me on the shins drawing blood and reopening the wounds that I received in Shanghai the day before.

Q What type of questions did they ask you?

A They asked me where I had come from, if I had combed Tokyo the previous week, if I had been stationed in China or in the Philippine Islands, and if I was American Army personnel.

Q How long did this questioning continue that first night?

A This questioning continued until four o'clock in the morning.

Q During all that period did they continue to mistreat you?

A I was slapped and kicked around nearly all the time.

Q Do you know what treatment was given to the other boys that were in your airplane?

A I found out later they received the same sort of treatment.

Q What did they do with you after they stopped questioning you the first night?

A I was then taken back to my cell and told to go to sleep.

Q Describe your cell to the court, please.

A The cell was approximately four feet wide and about eight feet deep. The furnishings was three blankets and a grass mat, latrine was in the corner. It was emptied once a day. It had a lid and that was the only furnishings that were in the cell.



- Q How long were you allowed to sleep that morning?  
A From four o'clock until seven.
- Q Then what happened to you after seven?  
A After seven, breakfast was brought in.
- Q What did that breakfast consist of?  
A What they call conji, it's watery rice, and a small cup of some sort of soup, about all it was was water and some sort of a green.
- Q Did the Japs question you again on that day?  
A Yes, I was taken out and questioned again that day.
- Q Were similar questions asked you that day that had been asked the previous night?  
A Yes, sir.
- Q What answers did you give to the questions?  
A All I gave them was my name, rank and serial number.
- Q Did you see the other members of your crew that day?  
A Yes, I saw Lt. Hallmark and Lt. Moder.
- Q Did you get to talk to them?  
A No, sir, they were in cells across the hall from where I was but their cells were facing mine, that is how I happened to see them.
- Q Do you know what treatment they had received the night before and that day from the Japanese?  
A From what they said later on when I did get a chance to talk to them, they received about the same treatment I did.
- Q How long did the questioning last in Tokyo?  
A Well, the questioning lasted approximately 18 days.
- Q Did they continue questioning you during those 18 days?  
A They would take one man out and question him for an hour, hour and a half, bring him back and then take someone else out.
- Q Did you see any of the other Doolittle fliers while you were in Tokyo other than your crew?  
A After about 3 days I saw Lt. Farrow. He was in the cell next to me and about the last week and a half we were in Tokyo we were all put in the same corridor so we were all in adjoining cells.
- Q During that 18 days of questioning were you allowed to take a bath or shave?  
A No, sir.
- Q At the conclusion of the 18 days of questioning did you sign any papers?  
A Yes, sir, I signed papers.
- Q What papers did you sign and what did they consist of?  
A Well, they were written in Japanese but they were interpreted.
- Q What did the interpreter say the papers read?  
A Well, about three weeks after we had bombed Tokyo I was shown maps and charts that the Japs had picked up from one of our airplanes that had been abandoned, evidently that was the only place they had any information, and through our questioning, after they picked up these maps and charts we confessed to bombing Tokyo, told them the areas we had bombed and confessed of leaving an aircraft carrier. Other than that, a small sketch of our life's history--where we went to school, where we had our army training, that was all it consisted of.



- Q When these statements were read back to you did they state you had admitted you bombed schools and churches?  
A No, sir, they did not.
- Q What targets did the statements say you had bombed?  
A Well, the way the statement was interpreted to me was that I had bombed steel mills in the northeast area of Tokyo at the edge of a bay.
- Q Did you sign the statement?  
A At first I refused, but after being threatened, I signed it.
- Q How were you threatened?  
A Well, from previous treatment we knew what would happen to us if we did not sign.
- Q Were you given a copy of the statement that you signed?  
A No, sir, I was given no statement.
- Q Do you know whether or not the other men that were with you signed statements?  
A Yes, sir, all the men signed after being put under the same threat.
- Q Do you know what their statement consisted of?  
A From what they said at a later date their statement contained almost the same thing as mine, other than Farrow's crew which had bombed down at Nagoya.
- Q Were you kept in solitary confinement during your time in Tokyo?  
A We were kept in solitary confinement up until the last two weeks, then Farrow and I were placed in the same cell and the other boys were doubled up in cells.
- Q How long were you kept in Tokyo?  
A We were in Tokyo from April 25 to June 17, 1942.
- Q Did any Japanese official come to your cells while you were there?  
A Yes, sir, there were several high-ranking Japanese officials who made a few visits down on inspection tours or out of curiosity to see us.
- Q Do you know the names of any of these persons?  
A No, sir, I do not.
- Q Did these Japanese officials question you or mistreat you in any way?  
A No, sir, they did not.
- Q Did these persons take any pictures of you?  
A Individual pictures were taken of us for the prison record and the day we left Tokyo we were all taken out and put in a long line, the high-ranking Japanese officials were standing in the background and several pictures were taken.
- Q Have you seen any reproductions of these pictures since that time?  
A No, sir, not of pictures taken at Tokyo.
- Q Referring again to the statement you signed, were any promises of good treatment or other favors given to you if you would sign the statements?  
A No, sir, we were merely informed we were leaving Tokyo and going to a prisoner of war camp.
- Q What was the condition of the wounds on your legs at that time when you left Tokyo?  
A They were all infected and in addition to that I had many bites from lice and bed bugs that were also infected.



Q Had you been afforded any medical treatment?

A No, sir, I had not.

Q Were you allowed to bathe or shave or clean your clothing during this time?

A No, sir, all the while we were in our cells we wore leg cuffs; we couldn't get our clothing off.

Q Were you given any medical treatment?

A None whatever.

Q Where did they take you after you left Tokyo?

A We were put aboard the train to Nagoya and from Nagoya to Shanghai by boat.

Q Were all of the men from the two crews taken back to Shanghai together?

A Yes, sir, we were moved together.

Q Explain briefly to the Commission the conditions of your trip back to Shanghai.

A We loaded aboard the train about noon; we stayed on the train all that night and up until the next night before we reached Nagoya. We were then loaded aboard this small ship that night and the next morning we left for Shanghai.

Q Were you bound or handcuffed during this trip?

A We were handcuffed and bound in the usual manner and on the train two of us had our legs cuffed together. We wore long Japanese raincoats, had a hood on our face that had two slits for eyes.

Q What happened to you after you got back to Shanghai?

A Well, as soon as we arrived at Shanghai we were loaded on the truck and taken down to the Bridge House.

Q Explain to the Commission just what is a Bridge House?

A A Bridge House is a hotel and apartment building but the Japanese had taken it over and had cell blocks built on the ground floor.

Q What happened to you at Bridge House?

A We were taken in and eight of us were put in a cell with fifteen other people. They were Chinese, Japanese, Jews, Dutch, French, every nationality there is in Shanghai.

Q What was the condition of the men when they got back to Shanghai - their physical condition?

A We were all quite weak; we lost quite a bit of weight; we were able to get around on our own power.

Q Explain to the Commission the condition of this cell that you were put in at Bridge House?

A This cell was approximately 12 feet deep and about 15 feet wide. There were already 15 people in there when we came in, making 23 in total. The latrine facilities was an open box in the corner.

DEFENSE: If the Commission please, the defense would like to ask the prosecution if they intend to tie up the Bridge House in any way with these accused?

PROSECUTOR: We will.

DEFENSE: I'd like the record to show until that time we do object to the questioning of the treatment at Bridge House. So far, there is not a thing in the record that the Bridge House ties up with the accused.



PROSECUTOR: So far we only had one witness on the stand.

DEFENSE: Let the record show we are objecting so if it is not done, it may be stricken.

- Q What ventilation was there in the cell?  
A It was sort of a large room and the cell is built in back of one corner, about eight feet away from one wall and six feet from the other. The only windows in that room were about 12 feet off the ground. They were only about six feet in length and three feet in diameter and they were never opened. The only ventilation we got was from one glass that had been broken out.
- Q What was the condition of this room as far as cleanliness is concerned?  
A There was no cleanliness there. We kept after the guards to give us some water and some mop rags so we could partially clean the place up. When we came in there were two people sick in the cell with dysentery; one died about a week shortly after and was moved out of the cell.
- Q Continue with your description of the cell.  
A The latrine had no lid and it was only emptied once a day and we were never permitted to leave the cell, wash our face, brush our teeth or anything else.
- Q Were there any vermin in the cell?  
A Well, the building was infested with rats, centipedes, lice, bed bugs, fleas, every other kind of bug that walked, crawled or jumped.
- Q Did you request the Japanese for any better treatment?  
A We requested innumerable times. It was either ignored or denied.
- Q Captain Nielsen, during all of the period up to the time you are talking about now, were you ever visited by a Red Cross representative or any one from a neutral power?  
A No, sir, we never were.
- Q Did you request that the Red Cross be notified of your condition?  
A Yes, we made this request because we thought if the Red Cross found out about it they would do something and we would probably be moved out to a prisoner of war camp.
- Q Did the Japanese notify the Red Cross?  
A I am quite certain they never did. We found out later while we were at Nanking, something led me to believe that they never would.
- Q What furniture was in the cell you had at Bridge House?  
A No furniture at all. We were forced to sleep on the wood floor without any blankets.
- Q How long were you held at the Bridge House?  
A We were held at the Bridge House for 70 days.
- Q During this period were you allowed to bathe or shave?  
A No, sir, we were not.
- Q What were you given to eat while you were at the Bridge House?  
A At the Bridge House we'd get about a pint of conji, watery rice, for breakfast, four ounces of bread at lunchtime and four ounces of bread at night. We were given maybe as much as two quarts of water for the eight of us in the entire day.
- Q What was the physical condition of the men at the end of the stay in Bridge House?  
A At the end of our stay at Bridge House 7 of us were able to move around and that was about all. Lt. Hallmark was sick and had to be helped continuously and he had been that way for approximately 10 days.



PROSECUTOR: If the Commission please, it's about 3:30.

LTCOL BERRY: I'd like to ask the witness a question.

Q Can you name the eight persons when you said "eight of us were placed in a cell with 15 others."?

A Yes, sir, I can. They were Lt. Farrow, Lt. Hite, Lt. Barr, Sergeant DeShazer, Sergeant Spatz, Lt. Hallmark, Lt. Mofer and myself.

PROSECUTOR: Does the Commission desire to recess at this time?

COLONEL MC REYNOLDS: The Commission will recess until 3:45.

(Whereupon the Commission recessed at 1525 hours.)

COLONEL MC REYNOLDS: The Commission is in session. (1545 hours.)

PROSECUTOR: Let the record show the accused, defense counsel, counsel for the prosecution, the interpreters and the reporter are present.

Q (By Lt Col Hendren) Before the recess, Captain Nielsen, you stated that Lt. Hallmark was sick at the time you left the Bridge House. Will you explain to the Commission Lt. Hallmark's condition?

A Well, approximately 10 days before we left the Bridge House, Lt. Hallmark became ill. We surmised to start with it was dysentery and that is what it turned out to be. He had no control over his bowels whatsoever and he could hold nothing on his stomach. We had to continuously help him. He was just at a state where he didn't know he was there or know what was going on.

Q What day did you leave the Bridge House?

A I left the Bridge House on August 28, 1942.

Q Had Lt. Hallmark received any medical attention prior to the time you left him at Bridge House?

A No, sir, he had not.

Q Where were you taken after you left the Bridge House?

A We were taken from the Bridge House out to Kiangwan.

Q What was done with you at Kiangwan?

A Well, as soon as we were taken out to Kiangwan we were taken into the court room to face a court martial.

Q During this period you had been in confinement had you been allowed to shave, bathe or change your clothing?

A No, we had not. For the first 120 days we were not permitted to even wash our face or brush our teeth.

Q You stated you were taken to a court martial. Tell the Commission about the court martial.

A Well, we were taken into this court martial room. There were seven Japanese officers. We were lined up, asked a few questions about our life's history, where we had obtained our schooling and our training in the army.

Q Do you recognize any person in this room as having been at that court martial hearing?

A Yes, sir, I do.

Q Will you please point out to the Commission that person or persons that are in this court room?

A Wako, the second one in the civilian clothes, and Okada in uniform.



- Q What was their official capacity in the room, if you know?  
A They were members of the court tribunal.
- Q Were all of the eight fliers that you named a while ago taken before the court?  
A Yes, sir, all eight were taken before the court.
- Q What was the physical condition of the men that were taken before the court?  
A Lt. Hallmark was taken in on a stretcher. The rest of us were on our feet but we were in a pretty weak condition.
- Q What else transpired at the court martial room?  
A After we had made our statements as to our education and air corps training, one of the court tribunal stood up, read a manuscript in Japanese.
- Q Was that manuscript interpreted to you in English?  
A I asked the interpreter to interpret it. He asked permission from the court tribunal and it was denied.
- Q Did any of the other fliers make any statement to the court besides answering the questions as to their name, training, schooling?  
A No other statements were made.
- Q Do you know the names of the eight fliers who were brought before the court martial?  
A Yes, sir, I know the names of the other fliers.
- Q Tell the court the names of the fliers who were brought before this court?  
A Lt. Farrow, Lt. Hite, Lt. Barr, Lt. Hallmark, Lt. Meder, Sergeant Spatz, Sergeant DeShazer and myself.
- Q Were you afforded a defense counsel at the hearing?  
A No, sir, we were not.
- Q Did any witnesses appear before that tribunal while you were in the court room?  
A There were no witnesses.
- Q Were you ever served any charges or advised of the charges against you?  
A No, sir, we were not.
- Q Do you know whether any of the other fliers were advised of the charges under which they were tried?  
A At that trial no one was advised.
- Q Were the proceedings interpreted to you in English?  
A Nothing was interpreted in English.
- Q Was Lt. Hallmark able to sit up in the court room?  
A No. Lt. Hallmark was lying on a stretcher. I doubt if he ever knew what was going on, and Lt. Barr was so weak they finally had to get a chair for him to sit in.
- Q At this trial did you see any of the statements that you had signed in Japan?  
A No, sir, I never did see those statements again.
- Q When you were brought before that court martial, were you given an opportunity to plead guilty or not guilty?  
A No, sir, we were not. As a matter of fact, we didn't even know it was a court martial.



- Q When they brought you before the tribunal, were you bound in any way?  
A No, we weren't bound but there was about 20 armed guards in the building or right outside.
- Q At this hearing did you or any of the other fliers admit that you had bombed schools, churches or civilians in the raid on Japan?  
A No, sir, we did not. Nothing was said about the bombing of Japan.
- Q How long did this hearing last?  
A From 20 minutes to a half hour.
- Q What was done with you after this hearing?  
A We were taken back to the prison building and confined to solitary cells.
- Q Were all of you taken back to the prison?  
A After some discussion between some of the Japanese officers, the interpreters told us they had decided to take Lt. Hallmark back to the Bridge House.
- Q Do you recognize any person in this court room who was in authority at the Kiangwan Military Prison while you were there?  
A Yes, sir, I do.
- Q Would you please point that person or persons out to the Commission?  
A Tatsuta, the fourth man.
- Q What was Tatsuta's position at the Kiangwan Prison?  
A He was warden or prison governor.
- Q How often did you see Tatsuta while you were at the prison?  
A Oh, we saw him on several different occasions.
- Q You stated, Captain Nielsen, you were placed in solitary confinement at the prison. Will you describe to the Commission the cells you were placed in?  
A Well, the only furnishings in the cell was a grass mat and three blankets. The cell was approximately five feet wide and nine feet deep. The floor was made of wood, the walls were cement; there was one small window in the back approximately eight feet off the ground and the window was about two feet square.
- Q What was the condition of the cell as far as cleanliness was concerned?  
A The cell was fairly clean although it was infested with lice and fleas.
- Q Was there any chairs or table in the cell?  
A No, sir, there was none.
- Q What latrine facilities were available in the cell?  
A Well, there was a hole in the corner that was covered by a door. It had a can underneath that was taken out from the outside and emptied.
- Q Do you know the type of cells the other men were kept in?  
A Their cells were just the same as mine.
- Q What were you fed at the Kiangwan Military Prison?  
A We were fed rice and some sort of a soup or stew, consisted of a few vegetables, some greens, fish.
- Q What type of rice was it you were fed?  
A It was white rice.
- Q How often were you fed?  
A We were fed three times a day.



- Q Were you allowed to have any exercise while you were at Kiangwan at that time?
- A We would get out for half an hour a day to exercise.
- Q Were you allowed to bathe or shave while you were there?
- A We would get a bathe once a week. We'd get clipped with a clipper as close as they could clip every 30 or 45 days.
- Q What clothing did you wear while you were there?
- A We wore the uniforms we had on when we crashed.
- Q Did you receive any physical mistreatment while you were at Kiangwan Military Prison?
- A No, sir, I didn't receive any physical mistreatment.
- Q Were you permitted to talk to any person while you were there?
- A We were not permitted to talk until we were put in a larger cell for 3 months. According to prison regulations we shouldn't have talked then but we did.
- Q What did you do during the day while you were in the cell?
- A We made several requests for books or something to read. Finally, through the interpreter we had out there, Mr. Remedios, we did get the English books he had.
- Q Did you stand up or sit down during the day?
- A We sat down most of the time. If we stood up and walked around then the guard would come down and tell us to sit back down and be quiet.
- Q What did you sit on when you sat down?
- A We folded one blanket on our grass mat and sat on the blanket.
- Q During this period were you visited by the Red Cross or any other representative of a neutral government?
- A No, sir, we were not.
- Q Did you make any request for any additional food or clothing to be sent to you?
- A Yes, sir, we did.
- Q Who did you make those requests to?
- A We made those requests through Tatsuta through Remedios who was acting as an interpreter out there.
- Q Were these requests denied?
- A They were either denied or ignored.
- Q Were you taken before a court martial again at any time?
- A I don't know whether you'd call it a court martial or not, but we were taken in, - we finally found out we had been sentenced to be executed but it was commuted to life imprisonment.
- Q On what date were you advised of this fact?
- A On October 15, 1942.
- Q Explain to the Commission what happened on that date?
- A Five of us--Lt. McGeer, Lt. Barr, Lt. Hite, myself and Sergeant DeShazer were taken in before this tribunal. As soon as we were lined up in front of the stand, another testimony was read in Japanese. This the interpreter was permitted to interpret. As it was interpreted we found out that we had been sentenced to be executed but through the grace of the Emperor he saw fit to show us leniency and commuted our sentence to life imprisonment.



- Q Did the interpreter explain to you what you had been charged with?  
A No, sir, we never did know why we had been sentenced to be executed.
- Q How long did this hearing last?  
A Not more than 20 minutes.
- Q Did you see Lt. Hallmark or Lt. Farrow or Sergeant Spätz at that hearing?  
A No, sir, they were not present at that hearing.
- Q Do you recognize any person in this court who was present at that hearing?  
A Yes, I do.
- Q Would you point out to the Commission the person or persons in this court room who were present at that hearing?  
A Wako and Okada.
- Q Was Captain Tatsuta present at that hearing?  
A He may have stood in to see what was going on. He wasn't on the court tribunal and I don't recall seeing him in the court room.
- Q When was the last time you saw Lt. Hallmark?  
A The last time I saw Lt. Hallmark was on August 28 when the court met the first time.
- Q When was the last time you saw Lt. Farrow and Sergeant Spätz?  
A Well, it was late in the afternoon of the 14th of October. The guard came down and opened the cell door and I saw them both went up the hall past my cell and that is the last I saw of either one of them.
- Q Did you know at that time what had happened to these three men?  
A No, sir, I didn't know, but when they turned up missing, I merely supposed they had been transferred to some other prison.
- Q Did you make any inquiry at the prison as to what had happened to them?  
A We made inquiries but the only thing we could find out is they supposedly had been transferred.
- Q How long were you kept in solitary confinement at the Kiangwan Prison?  
A From August 28 until about the 5th of December.
- Q What year?  
A 1942.
- Q What happened to you on December 5, 1942?  
A On the 5th of December, the five of us remaining there were moved into the other corridor and all placed in one large cell together.
- Q Describe the conditions of that cell to the Commission?  
A Well, that cell was approximately 12 foot square, had two small windows about eight feet up off the floor, they were about a foot and a half high and about three feet wide. They were opened during the day and closed at night. The cell was fairly clean. Latrine facilities were the same as the small cells and we just moved our blankets and mats from the other cell with us.
- Q Was there any furniture in that cell besides the mats on the floor?  
A Our mats and blankets were the only furnishings in the cell.
- Q Was there any heat in the cells?  
A No, there was no heat in any portion of the building.
- Q Had there been any heat in the cells where you were kept in solitary confinement?  
A No, there was no heat in those cells either.



- Q When you were all put in the cells together, did you receive any particular instructions as to your conduct in that cell?  
A We were told we were not permitted to talk, although we did.
- Q Were you allowed to walk around in the cells?  
A No, we were supposed to stay sitting on the floor although occasionally we would get up and walk around.
- Q Who gave the instructions as to your conduct while in the cells?  
A Well, the guards gave most of the instructions.
- Q Do you know from whom the instructions to the guards came?  
A Well, the guards received their instructions from Tatsuta.
- Q Is that the Tatsuta who is on trial in this case?  
A Yes, sir, that is right.
- Q What type of food did you have during this latter period at Kiangwan?  
A Well, it was about the same most of the way through. Toward the end it even fell off worse than that.
- Q What did you have to drink while you were in the prison at Kiangwan?  
A We were limited to one cup of tea with each meal.
- Q What was the temperature in your cell, Captain Nielsen, while you were there?  
A Well, it was cold enough to freeze water many nights during the winter and it was the same temperature in the cell as it was outside.
- Q During that period were you given any additional clothing?  
A We were given no additional clothing other than the clothing we had with us.
- Q What did that consist of?  
A Well, I had my wool slacks, a wool shirt, my leather flying jacket and summer flying coveralls.
- Q Were the other men with you similarly dressed?  
A Farrow and Spatz were both dressed in their suntans, in their summer uniforms.
- Q What did Meder and Barr have?  
A The rest of us had our wool uniforms.
- Q How long were you kept at Kiangwan Military Prison?  
A From August 23, 1942 to June 17, 1943 - I mean April 17, 1943.
- Q What was your physical condition in April of 1943?  
A Well, I hadn't been ill during that period although we were all in a pretty weak condition.
- Q What was the condition of the other boys that were with you?  
A They were in about the same condition as I was.
- Q Where were you taken after you left Kiangwan Military Prison?  
A We were taken out to the airport and flown from there to Nanking.
- Q Did you see Captain Tatsuta before you left the Kiangwan Prison?  
A Tatsuda accompanied us out to the airport and was standing by the plane when we took off.
- Q What was done with you after you got to Nanking?  
A We were taken out to a Japanese Military Prison and confined to solitary cells.



- Q What men were taken to Nanking that you speak of?  
A Lt. Barr, Lt. Meder, Lt. Hite, Sergeant DeSnazer and myself.

Q Describe the condition of the prison at Nanking briefly.

DEFENSE: If the Commission please, before we go further, we have the same objection. The charges and specifications only cover the period 17 April 1943. We want to interpose an objection as to the topic of confinement unless prosecution will qualify how it is going to fit in. We have not prepared a defense before and beyond the period of the specifications.

PROSECUTOR: May it please the Commission, in the specifications against General Sawada we have alleged that General Sawada was responsible for the death not only of Lt. Hallmark, Lt. Farrow and Sergeant Spatz but also of Lt. Meder, and I think it is permissible before this Commission to show what happened at Nanking. That is in Specification 5 to the charges on Sawada. We further allege that these men were kept as war criminals at Nanking or any further time after they were sentenced is admissible before this Commission. We also further contend these men put in motion the cause that caused these men to be confined as war criminals. We can show by this evidence what happened when they were released from confinement, what happened to them the remainder of their confinement during the war.

COLONEL MC REYNOLDS: The objection is overruled. The prosecution will proceed.

PROSECUTOR: Read back the last question.

(The reporter read back the last question.)

A The prison at Nanking was a new building that had just been constructed. It wasn't infested with vermin and it was rather clean. The furnishings in our cell was one table nailed against the wall and a chair nailed in front of it.

Q Were the other cells for the other prisoners of similar size?

A No, the cells Lt. Barr and I were in were approximately 12 by 12. The other three were kept in cells about 9 by 12.

Q How were you treated at the Nanking Prison as far as physical treatment is concerned?

A Well, Lt. Barr was the only one who was really physically mistreated at Nanking.

Q Will you explain to the Commission what happened to Lt. Barr?

DEFENSE: Is this evidence to show the death of Lt. Meder?

PROSECUTOR: We'll get to that.

DEFENSE: We're talking about Lt. Barr.

COLONEL MC REYNOLDS: The Commission will decide on the evidence as brought out whether it has a value necessary to get the proper evidence for the Commission to decide.

DEFENSE: If the Commission please, the attitude of the defense is that this is a prejudicial type of evidence. We don't like to have the Commission hear it if it is not bearing upon the case. That is why we make our objection in advance.

PROSECUTOR: If it please the Commission, these men are accused of sentencing these prisoners to life imprisonment as war prisoners and in serving their sentence we have a right to show what happened to them, because



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these men, we contend, were responsible for sentencing them in the first place, so what happened while they were serving their sentence is the best evidence. If these men had not put in motion their sentences they wouldn't have received this treatment, so any mistreatment of these prisoners while they were prisoners is admissible.

DEFENSE: We don't agree with that statement as a statement of law. It is too broad. If the Commission please, the defense does not agree that the mere sentencing of a man to prison results in responsibility for all acts that may have intervened that were atrocities or mistreatment by other parties thereafter. I think that is not a correct statement of the law.

COLONEL MC REINOLD: The Commission will adjourn until nine o'clock tomorrow morning.

(Whereupon the Commission adjourned at 1640 hours on 18 March 1946 to reconvene at 0900 hours on 19 March 1946.)

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MORNING SESSION

... Pursuant to adjournment, the Commission reconvened at 0900 hours, 19 March 1946.

COLONEL MC REYNOLDS: The Commission is reconvened.

PROSECUTOR: Let the record show that the Commission, the accused, counsel for defense and prosecution, the interpreting staff and the reporter are present in the court room.

If it please the court before adjournment at the last session there was an objection pending on the testimony relative to the admissibility of evidence as to treatment of the prisoners at Nanking prison. At that time we were discussing the treatment of Lieutenant Barr.

COLONEL MC REYNOLDS: The motion by the defense is sustained. The prosecution will combine his questions to those regarding circumstances and events prior to 17 April 1943 except questions pertaining to or concerning the alleged death of Lieutenant Meder at a later date.

PROSECUTOR: The prosecution desires to enter exception to the ruling of the Commission as to the admissibility of that testimony, for the purpose of the record.

(T/Sgt John Morozumi acted as interpreter.)

CHASE JAY NIELSEN

called as a witness on behalf of the Prosecution, having been first duly reminded that he was still under oath, resumed the stand and was examined and testified as follows:

DIRECT EXAMINATION

- Q (By Lt Col Hendren) Captain Nielsen was Lieutenant Meder confined at Nanking?
- A Yes, Lieutenant Meder was confined at Nanking.
- Q What was Lieutenant Meder's physical condition in the spring of 1943, when he was first confined at Nanking?
- A He was rather weakened from lack of proper food and living in solitary confinement.
- Q What food, if you know, was given to Lieutenant Meder after he arrived at Nanking and during the summer of 1943?
- A We were given approximately a pint of rice at each meal, a soup made from onions or turnip tops and what we called sea weed, and lily root. Well it was all insufficient to maintain the health that we needed.
- Q Was this same food given to Lieutenant Meder?
- A This same food was given Lieutenant Meder.
- Q What type of cell was Lieutenant Meder confined in at Nanking?
- A The cell was approximately 9 feet by 11 feet. The furnishings consisted of one table and one chair which were nailed to the floor, and three blankets and a grass mat to sleep on.
- Q What exercise was given to Lieutenant Meder?
- A Half hour a day.



3/2 m 19/3 AM

Q Was he confined the balance of the day and night?  
A Yes, he was confined to his cell the rest of the time.

Q What later happened to Lieutenant Meder?  
A Well in the early part of September he became ill and his health started declining. His symptoms and reactions were similar to Lieutenant Hallmark's so we figured he had dysentery. His health kept declining and later on the symptoms of beri-beri showed up. About the tenth of November he was in such a weakened condition that he wouldn't even leave his cell to go out and exercise and as a matter of fact he was bedridden from then on out. When we came back in from exercising we would occasionally stop and talk to him if the guard would permit it.

INTERPRETER: I didn't get the last part of that.

REPORTER: When we came back in from exercising, we would occasionally stop and talk to him if the guard would permit it.

A (continued) Then on the first of December we talked him into coming out and sitting on the steps in the sunshine. His feet were so swollen and he was in such a weakened condition that all he could do was sit there while we exercised. After the exercise period we helped him back to his cell. We were not permitted to sleep in the daytime so the guards would try to keep him awake. Between three and four that afternoon the guard started calling to him, supposing he was asleep and as Meder didn't answer him, he opened the door and went on in and Meder was dead.

Q What date was that that Lieutenant Meder died?  
A December 1st, 1943.

Q During this period did Lieutenant Meder have any medical attention?  
A About eight or ten days before he died one Japanese doctor came in and was in the cell for about five minutes.

Q Captain Nielsen, from your observations about Lieutenant Meder's condition, what, in your opinion, was the cause of his death?  
A I'd say lack of -- insufficient food, malnutrition, lack of medical care, dysentery, and beri-beri.

Q Had this lack of food and lack of medical care continued since you were confined -- since Lieutenant Meder was confined in Kiangwan prison?  
A Yes sir, it had.

Q What was Lieutenant Meder's weight at the time he died?  
A At the time of his death I'd say it wasn't more than 110 pounds.

Q What was Lieutenant Meder's weight at the time he was captured?  
A Approximately one seventy-five.

Q Was the amount of food and exercise and medical care and general living conditions at Nanking about the same as the food, exercise, medical attention and general living conditions at Kiangwan prison?  
A Yes sir, it was approximately the same all the way through.

Q Captain Nielsen, going back to your testimony of yesterday, do you know where Lieutenant Farrow's plane bombed in Japan?  
A Yes sir, I do.



3-3 m 19/3 AM

Q Will you state to the Commission where that plane dropped its bombs?

A He dropped his bombs on an aircraft factory and oilfield in Nagoya.

Q Did you discuss the flight of Lieutenant Farrow's plane with members of his crew?

A While we were in the large cell together at Kiangwan we discussed the raid quite a bit.

Q What statements, if any, were made by the members of the crew relative to where they bombed and as to the bombing of non-military targets?

A Well, they stated that they had bombed military objectives and nothing else.

Q What was the number of Lieutenant Farrow's plane, if you know?

A Two - Two - Six - Nine.

Q Do you know whether or not Lieutenant Farrow's plane came over the City of Tokyo?

A I know definitely it didn't because I helped Lieutenant Barr set up his navigation charts and his track lay south of Tokyo.

Q Now during this entire period of your confinement that you have testified about, were you ever contacted by the International Red Cross or any representative of a foreign nation relative to your confinement?

INTERPRETER: I did not get the last part.

REPORTER: (reading) Were you ever contacted by the International Red Cross or any representative of a foreign nation relative to your confinement?

A No, we were never. In fact at Nanking after making several requests for books and food, the prison governor informed us that the Japanese had made a world wide broadcast that we had been executed and therefore he couldn't request anything for us because it would indicate we were in prison.

Q Were your parents ever advised of your capture and confinement?

A No sir, they never were.

Q Do you know what happened to Lieutenant Hallmark and Lieutenant Farrow and Sergeant Spatz?

A I never did know where they were. I merely figured they had been transferred to another prison.

Q Do you know now what happened to Lieutenant Farrow and Lieutenant Hallmark and Sergeant Spatz?

A Yes sir, I know now what happened to them.

Q Will you tell the Commission what you know.

A Well from the investigation that has been made, they were taken out and their sentence of execution was carried out.

Q Do you know what date that was carried out?

A The execution was carried out October 15, 1942.



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- Q Do you know where that execution was carried out?  
A Yes, sir, that execution was carried out out here at Kiangwan in the Chinese cemetery.
- Q Do you know who was Commanding General of the Japanese 13th Expeditionary Army in China?  
A Yes sir, I do.
- Q Will you state to the Commission who that is--who that was?  
A At that time it was Lieutenant General Sawada.
- Q Is Lieutenant General Sawada in this court room?  
A Yes sir.
- Q Will you point him out to the Commission please?  
A The man on this end with glasses on (indicating Shigeru Sawada).

PROSECUTOR: For the purpose of identification, I will offer now Prosecution's Exhibit "D" and ask the witness to tell what those are, if he knows.

- A Well, that is Lieutenant Barr.
- Q Tell what it is.  
A It is pictures taken at Nanchang.
- Q Who do you recognize in that picture which is identified as No. 1?  
A I recognize Lieutenant Barr.
- Q Do you recognize anyone in picture identified as No. 2?  
A I recognize Lieutenant Barr.
- Q Do you recognize anyone in picture No. 3?  
A Lieutenant Farrow, Lieutenant Barr, Lieutenant Hite, Sergeant Spatz and Sergeant DeShazer.
- Q Do you recognize anyone in picture No. 4?  
A Sergeant DeShazer, Sergeant Spatz, Lieutenant Hite, Lieutenant Barr and Lieutenant Farrow.
- Q Do you recognize anyone in picture No. 5?  
A Lieutenant Barr, Lieutenant Farrow, Lieutenant Hite, Sergeant Spatz and Sergeant DeShazer.
- Q Do you recognize anyone in picture No. 6?  
A Sergeant DeShazer, Sergeant Spatz, Lieutenants Barr, Farrow and Hite.
- Q Do you recognize anyone in picture No. 7A?  
A Lieutenant Farrow, Lieutenant Barr, Lieutenant Hite, Sergeant Spatz and Sergeant DeShazer.
- Q Do you recognize anyone in picture identified as picture No. 7B?  
A Lieutenant Hite.
- Q Do you recognize anyone in picture identified as picture No. 8?  
A Lieutenant Barr, Lieutenant Farrow, Lieutenant Hite, Sergeant Spatz and Sergeant DeShazer.
- Q Do you recognize anyone in picture No. 9?  
A Sergeant DeShazer, Sergeant Spatz, Lieutenant Hite, Lieutenant Farrow and Lieutenant Barr?



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Q Do you recognize anyone in picture No. 10?  
A Sergeant Spatz.

Q In picture No. 11?  
A Lieutenant Hite, Lieutenant Barr, Lieutenant Farrow, Sergeant Spatz and Sergeant DeShazer.

Q Do you recognize anyone in picture No. 12?  
A Lieutenant Hite, Lieutenant Barr, Lieutenant Farrow, Sergeant Spatz and Sergeant DeShazer.

Q For the purpose of the record, Captain Nielsen, I will again show you picture identified as picture No. 12 and ask you to identify the persons in that picture from left to right, back row and front row.

A Front row, left to right, Sergeant DeShazer and Sergeant Spatz. In the rear row, left to right, Lieutenant Farrow, Lieutenant Barr and Lieutenant Hite.

PROSECUTOR: I would like to have the reporter mark this group of pictures for identification purposes only. They will be offered in evidence at a later date. That is Prosecution's Exhibit "B".

(Group of pictures so marked.)

PROSECUTOR: That will be all the direct examination at this time of this witness. You may cross-examine.

#### CROSS EXAMINATION

Q (By Lt Col Bodine) Captain, why did you volunteer for this raid over Tokyo?

A Because I was already in the service and I wanted to get into action. At the time I volunteered, I didn't know what I was doing.

Q During your briefing, what were you told was the purpose of the bombing of Japan?

A We were told we were going over Japan to bomb military installations.

Q Was that the only reason you were told that you were bombing Japan?

A We were bombing their military installations to slow down their production and to break down Japanese morale.

Q Wasn't it also told to you that this raid was the first of its kind and hence was very important and you should make the most of it?

A Yes sir. We realized that as soon as we found out what our mission was.

Q You stated in previous testimony that the fliers engaged in a card game, is that right? A card game to see who would bomb the Imperial Palace?

A That is right.

Q Did you also engage in this card game?

A That was between the pilots.

Q Isn't it a fact that prior to the raid on Tokyo you all -- all of you fliers hated the Japs?

A Yes sir, I don't think we had any more love for them than you did.



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- Q Therefore you would have very much liked to have killed some Japs on this raid, wouldn't you?
- A Certainly.
- Q Do you think that was the opinion of the other fliers also?
- A I think so, yes.
- Q You considered, therefore, all the Japanese your enemies, didn't you?
- A That is right, they were. I haven't changed my mind yet.
- Q Then had you not been ordered to, wouldn't you have strafed Japs whether they were soldiers or civilians?
- A Through the training I have had in the Army, when I go into war it is nothing but military installations and as far as innocent people are concerned, that is out. We want the military installations.
- Q Well, weren't you trained to kill your enemies?
- A That is right but this particular mission was for military installations to slow up their military production.
- Q From the attitude of the fliers, then, would you be surprised at all if some of them strafed non-military targets rather than leave Japan with loaded machine guns.
- A I would be surprised.
- Q You would not be surprised?
- A I would be surprised.
- Q Weren't you told to strafe and drop your incendiary bombs where they would do the most good, in the congested areas?
- A We were told to use our machine guns for defense against enemy aircraft because we didn't carry too many rounds of ammunition. We were told to drop our incendiary where that would do the most good over some congested area like aircraft factories or oilfields.
- Q What was the purpose of the low altitude bombing?
- A That was for the purpose of our own safety against anti-aircraft fire and to protect against enemy aircraft.
- Q Were schools, hospitals and churches designated on the map given to you for this raid?
- A Yes sir, they were designated on there.
- Q Do you know the difference between a military and non-military target?
- A I certainly do.
- Q What is the difference.
- A Well there is much difference.
- Q What is much difference?
- A A steel mill, an oil farm or aircraft factory would certainly be a military objective to bomb. Churches and schools certainly wouldn't.
- Q Were there any schools or churches near the military target that you were to bomb?
- A I think the nearest was maybe about three miles.
- Q You stated in previous testimony that the statement you signed in Tokyo stated you bombed military objectives. Are you sure that is all it said?



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- A As I stated before, it was written in Japanese and as it was interpreted to me, it stated a short summary of our life history, our military training and the areas we had bombed in Tokyo which in my case was steel mills.
- Q How many guns were in the wings of the B-25's used by the Doolittle fliers?
- A There were no wing guns. We had two 50 caliber guns in the turret midway and one flexible gun in the nose.
- Q Then there were only two 50 caliber guns -- turret guns, and one flexible gun in the nose, is that right?
- A Yes sir.
- Q There were no belly guns, right?
- A That is right.
- Q What was the caliber of the gun in the nose?
- A Thirty caliber.
- Q That was a flexible gun, wasn't it?
- A Yes.
- Q Who fired that gun in case of necessity? Who was responsible for that gun?
- A That gun was manned by the bombardier.
- Q There were no rear guns, is that right?
- A No rear guns.
- Q At what altitude were you flying when you were over Tokyo?
- A We were flying at fifteen hundred feet.
- Q On your approach to Tokyo what altitude were you flying?
- A From the Hornet in, until we were close on our target, we were flying between fifty and one hundred feet.
- Q After you left the target area, what altitude did you fly?
- A We dropped back down to one hundred feet and flew at that altitude the rest of the time.
- Q Why did you make a second run over the target?
- A Because we only got three bombs out the first time and we made the second run to drop our fourth and last bomb.
- Q Was it because you had missed your target on the first run that you made the second run?
- A No, we had no misses.
- Q Are you sure that none of the guns in the plane - in your plane - were fired while you were over Japan?
- A I am absolutely sure.
- Q What was your location in the plane at the time the bombs were dropped over your target?
- A I was riding in the navigator's well and watching through the drift meter for the first bomb and through the window for the last one.
- Q Isn't it possible that from where you were in the navigator's compartment that you couldn't hear anyway if the flexible gun in the nose were fired?
- A Have you ever rode in a B-25 with a nose gun?



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Q I have.

A They are quite easy to hear.

Q I don't think so.

INTERPRETER: What is the answer on that question?

DEFENSE: I am waiting for the answer.

A Well, I definitely know they were not fired.

Q Could you see the gunner on the turret gun from where you were?

A Yes sir, I could see him over the catwalk from the window.

Q Did you -- did your plane hit the target so designated for you to hit, with your bombs?

A Yes sir, we did. The main reason for the second run was because we ducked some flak which spoiled our approach on the first run and we went back.

Q Did the -- do you know if the bombardier used his bomb sight on the second run?

A Yes sir, he did.

Q Did your plane take evasive action while it was over Tokyo?

A Well there was no enemy aircraft in the air at all. The air was full of flak and all that. We made our run. If we showed any fear or cowardice, we would never have made our second run.

Q Do you mean to say, Captain, that your plane didn't take any evasive action when the Japs were firing at you?

A We made one dip to miss one blast of flak. That is what spoiled our last bomb on our first run and we came in again.

Q Did you say it spoiled your run or spoiled your last bomb?

A It spoiled our last bomb. It threw us off so we couldn't drop. We wouldn't hit our target.

Q Isn't it true that you were told to use your explosive bombs on military targets only?

A Yes sir. The same statement was made about our incendiaries.

Q Weren't you told to drop your incendiary bombs on a congested residential section?

A We had a congested military installation to drop our bombs on. We were directed to drop our four bombs in the steel mill area, which we did.

Q Then you deny that you were told to drop the incendiary bombs in the congested residential areas?

A I deny it, yes.

Q Didn't you say in a previous statement on interrogation that you had dropped your incendiary bomb in a congested residential area?

A What I said -- as congested as Tokyo is, there was quite a residential area right up against the steel mill and when you drop an incendiary cluster it spreads, you just can't help it.

Q When incendiary bombs leave the plane they leave in one bomb and then they scatter into a number of bombs, is that right?

A Yes sir.



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Q These incendiary bombs are very small, aren't they?  
A Well in this cluster there was one hundred eighty 3 pound thermitic bombs.

Q Then it would be -- it was very hard for you to see all these bombs hit the target or the area of the target?  
A Yes sir.

Q From what direction did you come from when you approached Tokyo?  
A We came from the east into Tokyo. Our approach on the steel mills ran --

Q Which way?  
A Southwest.

Q In what direction did you go, Captain, when you left Tokyo?  
A As we dropped our last bomb we headed out over the bay and ran about one hundred miles due south.

INTERPRETER: I did not get that answer.

Q After we dropped our last bomb we headed out over the bay and ran about one hundred miles due south.

Q Was your primary target in Tokyo?  
A Our primary target was the target we bombed.

Q Were you given a particular target to hit in Tokyo?  
A Yes sir, we were given a particular target.

Q Did you hit your target?  
A Yes sir, we did.

Q What was the target you were supposed to hit?  
A Our target was the steel mills and smelter in the northeast section of Tokyo on the edge of the bay.

Q Did you drop your incendiary bombs on congested or populated areas or just drop them anywhere?  
A We dropped them on the steel mill area.

Q You just said steel mill area -- not the steel mill itself?  
A When I say the steel mill area I mean the steel mill itself. The area is the steel mill and all its buildings.

Q You stated, Captain, that you had seen all your bombs hit the target through your drift meter, is that correct?  
A Yes, that is true.

Q You mean to tell this Commission that you saw all the bombs through your drift meter hit the target when the plane was going two hundred forty miles an hour at fifteen hundred feet, through a drift meter?

PROSECUTION: (Major Dwyer) If the Commission, please, we object to this quotation as being a misquotation of the record. The record will show he saw one bomb through the drift meter and saw the rest of the bombs through the window, and any answer which the witness may have given to the quotation should be stricken from the record.

COLONEL MC REYNOLDS: Objection sustained. It appears to the



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Commission that the prosecution has repeated his questions -- the defense counsel, pardon me, has been repeating his questions too often. The same testimony has been brought out in the case already.

Q Is it true that people and children were waving at you when you were flying over Japan?

A Yes sir, that is true.

Q Did you have many talks with the other fliers when you joined them in prison, later on?

A Yes we talked quite frequently about the raid.

Q Then you discussed your experiences of the bombing with them?

A Yes sir, we did.

Q Did they mention to you in their conversations that they had ever strafed schools or hospitals?

A The statements that they made were that they had bombed this aircraft factory and oilfield or tank farm and nothing was said about bombing school children or civilians or churches until later when we found that is what we were charged with and they all denied it and said at the time they had not bombed them.

Q You just said they denied this bombing and strafing of schools, when did they deny this?

A While we were at Nanking we found out that is the reason we had been sentenced and they said it was a false statement, they never said anything of the kind.

INTERPRETER: What do you mean they never said anything of the kind?

DEFENSE: They never made such a statement.

Q Didn't you make a statement in a prior interrogation that you were instructed to drop your incendiary bombs in congested areas where it would do the most good?

A On congested areas, yes. Congested areas around military installations and industrial plants.

Q Didn't you make a statement to Carl L. Sebey, SIC, in Utah on December 7, 1945, as follows: "We dropped our incendiary clusters in a congested residential area."

A What is meant by that statement is --

Q I didn't ask what is meant.

A Yes, I made the statement.

PROSECUTOR (Major Dwyer) If the Court, please, this is cross-examination and the witness is entitled to explain an answer.

COLONEL MC REYNOLDS: The witness will answer first, then explain.

A Yes, I made the statement. What I meant by that statement is that the bomb was dropped in a congested district, and, as I stated before, Tokyo is pretty well congested and residential districts are built right up against military objectives and industrial plants and if any of those bombs went into the residential district, that is the way it happened.

Q Then, Captain, why did you tell Carl L. Sebey that?

A He was undoubtedly told that. I didn't write the statement up. I made the statement.



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Q You signed such a statement didn't you?  
A Yes, I did.

(Mr. Krantz relieved Sergeant Morozumi as interpreter)

Q Were you shown, Captain, any pictures of Tokyo or your target area during the briefing of the mission?

A We had very detailed maps that were made up in the hydrographic office back home and they were very clear.

Q Did you have any pictures of the target?

A I don't recall seeing any pictures.

Q Then how did you know or how did the crew of your plane know the target when they came upon it?

A Lieutenant Jurika was aboard the Hornet. He had been attached to a Military Attache or Military Advisory Group in Tokyo and had lived there some twelve years, hence he did a lot of briefing as well as Doolittle, so we were pretty sure what we were going into.

Q Then did he tell you there were schools or hospitals about two miles from this place you bombed?

A The schools and hospitals were marked out on the map.

DEFENSE: Hold your answers, Captain, please so the interpreter will have an opportunity to complete his interpretation of the question.

Q Do you know if Lieutenant Hallmark was injured in the crash of his plane?

A He had a few lacerations on his leg and knee.

Q Do you know if Lieutenant Hallmark ever got any medical treatment while he was in prison?

A To my knowledge he never did get any.

Q Didn't you say in one of your signed statements that Lieutenant Hallmark was given medical attention and that he had recovered?

A No sir, I never remember making a statement to that effect.

PROSECUTOR: (Colonel Hendren) If the Court, please, the prosecution would like to object to that line of questioning. The proper way of impeachment of this witness would be to identify the statement he made and read the question and the answer he gave. I do not believe this is the proper way and we object.

DEFENSE: Then I will ask the prosecution to introduce the statement signed by the witness, in evidence.

PROSECUTOR: The prosecution will handle its own case, in its own way. If the defense has any statements they should read the question and the answer and then question the witness.

COLONEL MC REYNOLDS: Objection is sustained. If the defense wishes to present those statements, it is satisfactory to the Commission. You can place the statement in evidence.

DEFENSE: The defense does not have signed statements of Captain Nielsen, sir, it has a copy.

COLONEL MC REYNOLDS: Copies are permissible as evidence.



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PROSECUTOR: Ma, it please the Commission, we have supplied the defense with these statements and we have no objections to their use of the copies.

DEFENSE: The defense requests the Commission for a recess at this time.

COLONEL MC REYNOLDS: The Commission will recess for fifteen minutes. We will reconvene at 1045.

(Whereupon the Commission recessed at 1030 hours and reconvened at 1045 hours, at which time all the members of the Commission, all of the accused, the personnel of the prosecution and defense, the interpreters and the reporter were present in the court room. The witness was reminded that he was still under oath.)

Q Captain, did you sign a statement in the presence of Carl L. Sebey, Agent, SIC, in Hyrum, Utah?

A Yes, I signed a statement taken by Mr. Sebey.

Q Is this a copy of that statement?

A (after examining document) Yes sir, that is a copy of the statement.

DEFENSE: If it please the Commission, then, I offer this statement in evidence as Defense Exhibit "A"

PROSECUTOR: If the Court, please, this is premature. The defense's case hasn't been opened yet. I think if the defense wishes it to be marked for identification to be later offered as part of his case that would be proper procedure.

DEFENSE: Sir, if it please the Commission we can offer this in evidence at any time.

COLONEL MC REYNOLDS: Any objection by the prosecution?

PROSECUTOR: I think the defense should state the purpose of the offer. If the offer is made for the purpose of impeaching the testimony of this witness, he ought to so state and the portions of the statement should be pointed out that are in conflict with the testimony given by the witness on direct examination, otherwise I cannot see that the statement serves any purpose.

DEFENSE: If the Commission, please, the purpose of the statement is for impeachment purposes. We have pointed out various conflicting statements. We do not want to argue the case at this time but to point it out now as a matter of evidence. We don't care to argue now. The purpose of the statement is for impeachment purposes.

PROSECUTOR: If the Commission, please, I do not believe there has been any foundation laid for the offer. I think it will be necessary for the defense to ask certain statements -- certain questions from that statement and give the answers that the witness gave in his previous statement to show the conflict. If that is done then that portion would be competent for impeachment. Otherwise I do not believe the entire statement is permissible at this time unless that is pointed out to the Commission

COLONEL MC REYNOLDS: The Commission will hear the contradictory evidence, if any, that the witness has produced, from the defense.