

Translated by  
Defense Language Branch

Sentenced on July 30, 1943  
Put into effect on the same day

Judgment

The Mukden P.O.W. Camp

P.O.W. Joe Bill Chestin (24)  
American  
Marine Sergeant  
Formerly a member of  
K Company, 3rd Battalion,  
4th Marine Regiment.

The Mukden P.O.W. Camp

P.O.W. Ferdinand F. Mehringolow (21)  
American  
3rd Warrant Officer  
Formerly a member of  
the crew of the Canovas,  
aircraft carrier.

The Mukden P.O.W. Camp

P.O.W. Victor Palioty (23)  
American  
Marine Corporal  
Formerly a member of  
B Company, 1st Battalion,  
4th Marine Regiment.

Def. Doc. #2244

After trial at this Court Martial with Judiciary Captain NIKAFUJI, Kotero, a prosecutor, as an advisor, a decision has been given to the cases against the above named defendants: the defendant Chestin on charges of being a ringleader of collective escape, theft, murder, and attempted murder; the defendant Mehringolow on charges of collective escape, theft, murder, and attempted murder; the defendant Palioty on charges of collective escape, murder, and attempted murder.

The decision is as follows:

Text of Judgment

The Court sentences the defendants Chestin, Mehringolow, and Palioty to death.

The seized articles --- a map of Manchoukuo, a compass, and a knife (Exhibit 1 - 3) shall be confiscated.

Reasons

The defendants Chestine, Mehringolow, Palioty were all taken prisoners by the Japanese Army in the battle of Corregidor, the Philippines on May 6, 1942, in consequence of the surrender of the American Army Commander. They were at first interned in the P.O.W. camp on the spot, and later on Nov. 11, 1942 removed to the Mukden P.O.W. Camp. The defendant Chestin was strongly built, dauntless, and intrepid. After his internment as a prisoner, very soon he became a latent power among his mates, always taking their leadership. While he was a marine, he was instructed by his superiors that in case he should be taken prisoner he should seize every opportunity to escape from the enemy's hand and come home to America, and that he should not do anything in the interest of the enemy. So he always watched for a chance to escape from the camp, intending to go north-ward and come home by way of Russia. The defendant Mehringolow, a boxer of the American Fleet, was also strongly built, but being loose and reckless by nature, he detested the camp life. On May 1, 1941, he attempted to escape from the camp, but was arrested then. He was sentenced to 30 days' close confinement. But he had no mind to change his way and watched a chance for escape. The defendant Palioty also detested the interned life in the camp and secretly desired to get himself free as soon as possible.

(No. 1) About June 10, 1943, the defendant Chestine revealed his intention to Palioty and Mehringolow and suggested them to escape from the camp with him. The two willingly agreed with him. At that time they had no other way but to seize every opportunity and

After that they met together secretly at every opportunity and talked about the plan for escaping, and all the time Chestin took their lead. He ordered the defendants Mehringgolow and Palioty to arrange necessaries for escaping and travelling. After they had finished the preparations, about noon on the 21st of the same month Chestin called the two into the bathing room in the camp and told them to carry out the plan after the roll-call that evening, taking advantage of darkness as it was moonless that night and appointed the time and place to meet. About 10 o'clock that evening the three met at a hollow place near a storehouse behind the dispensary in the camp. They crept toward the barbed wire entanglements about 50 metres east of the hollow place. About 10:50 they succeeded to pass under the entanglement then they went on foot north-west ward toward Russian territory, helping each other with a compass (which belonged to the defendant Chestin --- exhibit 2) and a map of Manchukuo (which belonged to the defendant Mehringgolow --- exhibit 3) as their guides. But about 6:30 p.m. on July 2, 1943, they were arrested about 3 kilometres south-west of a mongolian village of Liangchiatzu, Putonhargenmitok, Korchin Tsuayii-hochi, West Hsingan Province by members of the vigilantes of the above-mentioned village.

- (No. 2) With the intention of getting necessary tools for the plan,
- (1) in March (the day not clear) of the same year, the defendant Chestin stole 2 knives at two times, with the same criminal intention each time, from the kitchen of the Manchurian Machine Tool Manufacturing Company, 2nd Block, Churin Street, Tatung Ward, Mukden, where he was working on duty as cook at that time. The knives belonged to the above company.
  - (2) about June 1, 1948 the defendant Mehringgolow stole a knife (the owner was unknown) placed on the shelf in a room of the camp-affairs section in the camp.
  - (3) While escaping they were pinched for food and went together to a house in which lived Tuasampu (31), an assistant police inspector and Chief of the branch police station at Liangchiatzu. The three asked him for some food without knowing that he was a policeman. Tuasampu, harboring suspicion in his mind, put them a few questions the three tried to put him off with false explanations in a dumb-show that they were German fliers and that their plane had crashed on their way home from Japan, three of their comrades being killed on the spot, and that they were going to the station of the Japanese Army, the assistant police inspector demanded them to accompany him to the

crash scene, and the three defendants were compelled to go there with him. About 4 that afternoon the three left the village with the assistant police inspector followed by Patuten (56) and Kao Fengshan (56), both Mongolians and vigilance men of the village. On their way the defendant Chestin suggested the other two, Mehringgolow and Palioty, to kill the assistant police inspector and the two Mongolians. Mehringgolow and Palioty agreed with him at once. At this they decided by mutual consent the defendant Chestin would kill the assistant police inspector, the defendant Mehringgolow Patuten, the defendant Palioty Kao Feng shan. About 5 that evening when they came to a sandy place 2 kilometres south-east of the village, the defendant Chestin suddenly attacked Tuwasampu, stabbing his abdomen with the carving knife which he carried with him. Tuasampu made resistance. Chestin repeatedly stabbed his abdomen the wounds were fatal. At the same time the defendant Mehringgolow also attacked Patuten with his knife (Exhibit-3) stabbing Mehringgolow's back and breast and Patuten fell on the spot. Tuwasampu died from the wounds in the abdomen at 7:30 p.m. at Yongchiatzu Putonhergennutok on the day. They failed to kill Patuten, although he had to receive a three weeks treatment for his wounds on the breast and back. Kao Fengshan, seeing the scrimmage, immediately took to flight.

- We have recognized the foregoing to be true judging from
- (1) the defendants' depositions made at this court,
  - (2) the Army Judicial policeman's statement concerning the reasons of the arrest of the defendants, which was stated by Hsiechiaosuhai.
  - (3) the inspection statement prepared by the above Judicial policeman.
  - (4) Kao Fengshan's interrogatory prepared by the judicial policeman.
  - (5) the written explanation submitted by YONEMOTO, Haruo, the Chief of the P.O.W. Labor Division of the Manchurian Machine Tool Manufacturing Company.
  - (6) the attestation of Tuwasampu's corpse and Patuten's diagnosis prepared by Surgeon Lt. YAMAMOTO, Shiro.
  - (7) the seized articles, a map of Manchoukuo, a compass, and a knife (Exhibit 1 - 3)
  - (8) the defendant Chestin's offenses of the same nature repeated during a short time.

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According to the laws, as to the defendant Chestin as the crime of being a ringleader of the collective escape of P.O.W. shown above (in No. 1) comes under the first clause, Article VII of the Penal Law of P.O.W., we decided to condemn him to death --- one of the penalties provided in the law the crime of theft shown above (in No. 2-(1)) comes under Articles CCXXXV, and LV of the Criminal Law, the crimes of murder and attempted murder shown above (in No. 3) come under Articles LX, CXCI, and CCIII of the Criminal Law. But in the present case as one act has constituted two crimes of murder and attempted murder, penalty should be laid on the more serious crime, murder, according to the first clause of the first paragraph of Article LIV and Article X of the Criminal Law. And his crimes shown above are considered to be concurrent crimes, which were provided in the first clause of Article XLV, but as we have decided to condemn him to death on a charge of his being a ringleader of the collective escape, no more penalties are not imposed upon him on charges of the other crimes.

As to the defendant Mähringolow, as the crime of collective escape shown above (in No. 1) comes under the latter clause of Article VII of the Penal Law of P.O.W., the crime of theft shown above (in No. 2-(2)) comes under Article CCXXXV, and the crimes of murder and attempted murder shown above (in No. 3) come under Articles LX, CXCI, and CCIII. But in the present case as one act has constituted two crimes of murder and attempted murder, penalty should be laid upon the more serious crime, murder, according to the first clause of the first paragraph of Article LIV and Article X of the Criminal Law, accordingly we have decided to condemn him to death --- one of the penalties provided in the law. But we condemn him to death on a charge of murder, no more penalties are not imposed upon him on charges of the other crimes.

As to the defendant Palioty, the crime of the collective escape as shown above (in No. 1) comes under the latter clause of Article VII of the Penal Law of P.O.W.; the crimes of murder and attempted murder shown above (in No. 3) comes under Articles LX, CXCI, and CCIII of the Criminal Law. But in the present case one act has constituted two crimes of murder and attempted murder, penalty should be laid upon the more serious crime, murder, according to the first clause of the first paragraph of Article LIV and Article X of the Criminal Law, accordingly as we have decided to condemn him to death, no more penalties are not imposed upon him on charges of the other crimes.

The seized articles, a map of Manchoukuo, a compass (Exhibit 1-2) were used when they committed the crime shown in No. 1, and the other seized article a knife was used when they committed the crimes shown in No. 3. All these articles do not belong to any person other than the defendants, these shall be confiscated according to Article XIX of the Criminal Law.

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Hereby we decided to give judgment as shown in the text.

On this 30th day of July, 1943

Special Court Martial of Kwantung Army

Presiding Judge:

Major ICHIKAWA, Einoshin

Judge:

Judiciary Captain IMANARI, Ichiro

Judge:

Captain SHIONOYA, Kotaro

The above is a copy of the judgment.

On this 30th day of July, 1943

Special Court Martial of Kwantung Army

Clerk: NAKAMURA, Takeichi

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I certify that this document is an correct copy of the  
document in the custody of the Prisoner of War Intelligence  
Bureau.

15 of January, 1947.

P.O.W. Intelligence Bureau

/S/ YOKOI, Koji (seal)

Def, Doc # 2244

Exh, NO

判決

奉天俘虜收容所

元米國陸戰隊第四聯隊第三大隊B中隊

俘虜(陸戰隊軍曹)米國人

ジョー、ビル、チエスチーン

當 二十四年

奉天俘虜收容所

元米國潛水母艦カノバス號

俘虜(海軍三等兵曹)米國人

フアト、シナンド、テ、メリンゴロ

當 二十一年

奉天俘虜收容所

元米國陸戰隊第四聯隊第一大隊B中隊

俘虜(陸戰隊伍長)米國人

ピクター、パリオテイ

當 二十三年

右被告人「チエスチーン」ニ對スル黨與逃走首魁、竊盜、殺人、殺人未遂、被告人「メリンゴロ」ニ對スル黨與逃走、竊盜、殺人、殺人未遂、被告人「パリオテイ」ニ對スル黨與逃走、殺人、殺人未遂各被告事件ニ付、當軍法會議ニ檢察官陸軍法務大尉中藤幸太郎干與審理ヲ遂ゲ判決スルコト左ノ如シ

主

文

被告人「チエスチーン」、同「メリンゴロー」、同「パリオテイ」  
 オテイ」ヲ各死刑ニ處ス  
 押收ニ係ル滿洲國地圖、磁石、小刀各一點（證第一號乃至  
 第三號）ハ之ヲ沒收ス

理由

被告人「チエスチーン」、同「メリンゴロー」、同「パリオテイ」  
 ノ三名ハ執レモ昭和十七年五月六日比島コレヒドールノ戰鬪ニ於テ  
 軍司令官ノ降服ニ從ヒ帝國軍ノ俘虜トナリ現地俘虜收容所ニ收容セ  
 ラレ、次テ同年十一月十一日奉天俘虜收容所ニ移送收容セラレタル  
 モノナルガ、被告人チエスチーンハ體力强ク精悍且大膽ニシテ俘虜  
 トシテ收容セララルヤ常ニ同僚ヲ牛耳リ俘虜ノ間ニ隱然タル勢力ヲ  
 保有シ居タルモノニシテ、曩ニ米國陸戰隊在隊中上司ヨリ若シ俘虜  
 トナルコトアルモ機會ヲ捉ヘテ脱走歸國スヘク又敵軍ノ利益トナル  
 ヘキ所爲ハ總對之ヲナスヘカラザル旨教育セラレアリタリ爲豫テヨ  
 リ收容所ヲ脱走シテ北進シ蘇聯ヲ經テ歸國センコトヲ企圖シ逃走ノ  
 機會ヲ窺ヒ居タルモノ、被告人メリンゴロー、ハ米國艦隊拳闘選手  
 ニシテ體軀頑健ナルモ性放縱ナル爲播磨生活ヲ嫌忌、昭和十八年  
 五月一日逃走ヲ企テテ發覺シ重謹慎三十日ニ處セラレタルニ拘ラス  
 何等改悛スルトコロナク更ニ逃走ノ機會ヲ窺ヒ居タルモノ、被告人

ハリオテイハ豫テヨリ俘虜トシテ拘束セララルヲ嫌厭シ一刻モ早ク自  
 自由ノ身ニナランコトヲ私カニ希念シ居タルモノナルトコロ  
 第一昭和十八年六月十日頃被告人「チエヌチーン」ハ被告人「バリ  
 オテイ」及同「メリンゴロ」ノ兩名ニ對シ順次自己ノ意中ヲ打  
 明ケ相共ニ逃走センコトヲ慫慂シタルトコロ、右兩名共欣然之ニ  
 贊同シ、爾來被告人三名ハ機會ヲ捉ヘテハ私カニ會合シテ逃走計  
 畫ヲ練リ、其ノ間被告人チエヌチーンハ常ニ指導的立場ニアリテ  
 被告人メリンゴロ及同ハリオテイニ對シ逃走用具及携行身廻品  
 等ノ準備ヲ命シ事前準備ヲ完了シタル後、同月二十一日正午頃右  
 兩名ヲ收容所内入浴場ニ招致シ、今夜日夕點呼後月明ナキ夜隱ニ  
 乘シテ逃走ヲ決行スヘキ旨告ケテ集合時刻、場所等ヲ指示シ、同  
 日午後十時頃被告人三名ハ同收容所内醫務室裏空倉庫脇ノ窪地ニ  
 相會シタル上同所ヨリ約五十米東方ナル有刺鐵線柵邊匍匐進シ、  
 午後十時五十分頃右柵ヲ潛リテ脱出シ、爾來被告人三名ハ互ニ助  
 合ヒナガラ被告人チエヌチーン所持ノ磁石（證第二號）ト同メリ  
 ンゴロ所持ノ滿洲國地圖（證第三號）トヲ便リニ徒歩ニテ蘇聯  
 ヲ目指シ西北方ニ進行シタルガ、同年七月二日午後六時三十分頃  
 興安南省、科爾泌左翼後旗、布敦哈爾根努圖克、兩家支蒙古人部  
 落西南方約三軒ノ地點ニ於テ同部落自衛團員等ニ逮捕セラレ

第二右逃走ノ用ニ供センガ爲

一、被告人チエスチーンハ同年三月日不詳及五月日不詳ノ二回ニ互リ犯意ヲ繼續シテ當時炊事當番トシテ就勞中ノ奉天市大東區珠林街二段滿洲工作機械株式會社炊事場ニ於テ同會社所有ノ肉切庖丁二挺ヲ竊取シ

二、被告人メリンゴローハ同年六月十九日頃右俘虜收容所所屬內務班内棚上ニ置キアリタル所有者氏名不詳ノ小刀一挺ヲ竊取シ

第三前記逃走中食糧ニ竊シ、同年七月二日被告人三名相携ヘテ前示爾家子部落警察分所長警尉補德瓦桑布（當三十一年）方ニ其ノ警察官ナルコトヲ知ラスシテ立寄り食事ノ惠與方ヲ懇請シタルトコロ、同人カ不審ヲ抱キテ種々訊問ヲナスヤ手眞以足眞以ニテ自分等ハ獨逸飛行士ニテ日本ヨリ歸國ノ途中飛行機墜落シテ同僚三名即死シ、我等三名ハ日本軍ニ到ラントスルモノナル旨詐稱シテ其ノ場ヲ糊塗セントシタルモ、尙モ同警尉補ヨリ墜落現場ニ同行方要求セラレテ止ムヲ得ス之ニ應シ、同日午後四時過頃被告人三名ハ同警尉補及同部落自衛團員蒙古人巴圖殿（當五十六年）、同高鳳山（當五十六年）ト共ニ同部落ヲ出發シタルガ、途中被告人チエスチーンハ被告人メリンゴロー及同バリオテイノ兩名ニ對シ同警尉補及蒙古人二名ヲ殺害センコトヲ恣恠シタルトコロ、右被告

人兩名ハ直チニ之ニ贊同シ、茲ニ被告人チエスチー  
ンハ同警尉補ヲ、被告人メリンゴロ一ハ巴圖殿ヲ、  
被告人バリオテイハ高鳳山ヲ夫々分擔シテ殺害セ  
ンコトヲ共謀ノ上、同日午後五時頃同部落ヨリ約  
二軒東南方ノ砂岡地帯ニ差蒐ルヤ突如被告人チエ  
スチーンハ所携ノ肉切庖丁ヲ以テ右警尉補德瓦桑  
布ノ腹部ヲ突刺シ、立向ヒ來レル同人ニ對シ更ニ  
腹部ヲ數回突刺シテ之ニ致命傷ヲ與ヘ、之ト機ヲ  
一ニシテ被告人メリンゴロ一ハ巴圖殿ニ對シ所携  
ノ小刀（證第三號）ヲ以テ同人ノ背部、胸部等ヲ  
突刺シテ其ノ場ニ昏倒セシメ、其ノ結果德瓦桑  
布ヲシテ腹部刺創ノ爲同日午後七時三十分頃前  
記布敦爾根努圖克、揚家子ニ於テ死亡スルニ至  
ラシメ、巴圖殿ニ對シテハ治療約三週間ヲ要ス  
ル胸背部刺創ヲ負ハシメタルニ止マリ殺害ノ目  
的ヲ遂ケス、高鳳山ハ右亂闘ヲ瞥見スルヤ逸  
早ク遁走シタルモノナリ

右ノ事實ハ

- 一、各被告人ノ當公廷ニ於ケル供述
- 一、陸軍司法警察官ノ協吉效斯海ニ對スル逮捕事由聽取書
- 一、同官ノ作成ニ係ル檢證調書
- 一、同官ノ高鳳山ニ對スル證人訊問調書

一、滿洲工作機械株式會社俘虜勞務課長米本治夫ノ提出ニ係ル始末書  
 一、陸軍軍醫中尉山本四郎ノ德瓦桑布ニ對スル死體檢案書及巴圖殿ニ  
 對スル診斷書

一、押收ニ係ル滿洲國地圖、磁石、小刀各一點（證第一號乃至第三號）  
 一、被告人チエスチーンノ短期間内ニ於ケル同種行爲ノ反覆累行ノ事  
 跡

ニヨリ之ヲ認ム

法律ニ照スニ、被告人チエスチーンノ判示所爲中第一ノ俘虜黨與逃  
 走首魁ノ點ハ俘虜處罰法第七條前段ニ該當スルヲ以テ其ノ所定刑中  
 死刑ヲ選擇シ、第二ノ一ノ竊盜ノ點ハ刑法第二百三十五條、第五十  
 五條ニ、第三ノ殺人、殺人未遂ノ點ハ刑法第六十條、第九十九條  
 第二百三條ニ各該當スルトコロ、殺人ト殺人未遂トハ一個ノ行爲ニ  
 シテ二個ノ罪名ニ觸ルル場合ナルヲ以テ刑法第五十四條第一項前段、  
 第十條ニ則リ重キ殺人罪ノ刑ニ從ヒ、以上ハ同法第四十五條前段ノ  
 併合罪ナルモ俘虜黨與逃走首魁罪ニ付死刑ヲ選擇シタルヲ以テ同法  
 第四十六條第一項ニヨリ其ノ他ノ罪ニ付刑ヲ科セス、被告人メリン  
 ゴロノ判示所爲中第一ノ俘虜黨與逃走ノ點ハ俘虜處罰法第七條後  
 段ニ、第二ノ二ノ竊盜ノ點ハ刑法第二百三十五條ニ、第三ノ殺人、  
 殺人未遂ノ點ハ刑法第六十條、第九十九條、第二百三條ニ各該當

スルトコロ、殺人ト殺人未遂トハ一個ノ行爲ニシテ二個ノ罪名ニ觸  
 ルル場合ナルヲ以テ刑法第五十四條第一項前段、第十條ニ則リ重キ  
 殺戮罪ノ刑ニ從ヒ、其ノ所定刑中死刑ヲ選擇シ、以上ハ同法第四十  
 四十六條第一項ニヨリ其ノ他ノ罪ニ付刑ヲ科セス、被告人バリオテ  
 イノ刑示所爲中第一ノ俘虜黨與逃走ノ點ハ俘虜處罰法第百九十九條、第二  
 第三ノ殺人、殺人未遂ノ點ハ刑法第六十條、第百九十九條、第二百  
 三條ニ該當スルハ口殺殺人殺戮未遂トハ一個個行爲ニシテ二  
 個ノ罪名ニ觸ルル場合ナルヲ以テ刑法第五十四條第一項前段、第十  
 條ニ則リ重キ殺人罪ノ刑ニ從ヒ、其ノ所定刑中死刑ヲ選擇シ、以上  
 ハ同法第四十五條前段ノ併合罪ナルモ殺人罪ニ付刑ヲ選擇シタル  
 ヲ以テ同法第四十六條第一項ニヨリ其ノ他ノ罪ニ付刑ヲ科セス、押  
 收ニ係ル滿洲國地圖、磁石（證第一號、第二號）ハ判示第一ノ犯行  
 ニ供シ、厨小刀（證第三號）ハ判示第三ノ犯行ニ供シタル物ニシテ  
 孰レモ犯人以外ノ者ニ屬セサルヲ以テ刑法第十九條ニヨリ之ヲ沒收  
 スヘキモノトス  
 ヲツテ主文ノ如ク判決ス

昭和十八年七月三十日

關東軍臨時軍法會議

