

EXHIBIT NO. 3192

(11)

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

RAKI, Sadao, et al

SWORN DEPOSITION

Deponent: OBATA, Minoru

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country, I hereby depose as follows:

1. At the time of the termination of the war I was a colonel in the army. Now I am taking charge of ships engaged in repatriation work.

2. I know Colonel HASHIMOTO, Kingoro very well.

3. In August, 1937, when Colonel HASHIMOTO was called up by the army and became the regimental commander of the 13th Field Heavy Artillery Regiment, I was then appointed to be a battalion commander under his command. From that time till he returned to Japan in April, 1939, from Hsiangshui (China) I was always with him.

4. When he arrived at the point about 8 miles (3 RI) west of Wuhu on December 11, 1937, Colonel HASHIMOTO received the following order from Commanding General YANAGAWA and thereupon returned to Wuhu immediately:

"Unit Commander HASHIMOTO shall command his regiment together with one field artillery battalion and one infantry battalion and attack at the point near Wuhu ships which are carrying Chinese soldiers and sailing up on the Yangtse."

This order came about 2 A.M.

5. Colonel HASHIMOTO's order then to me was, "Major CBATA shall command his own unit together with one artillery battalion and occupy a position at the wharf of Wuhu and attack the fleeing Chinese fleet." This order came about 5 A.M.

6. By order of Colonel HASHIMOTO, Lt. NAKAMURA was to advance to a point about 2,000 meters downstream and to wave a handkerchief whenever he saw the fleeing enemy ships by telescope. When I saw the handkerchief waved by Lt. NAKAMURA I was to fire upon these ships.

7. ~~It was still before dawn and not yet light;~~ ^{While the light was still dim, as day had not yet fully dawned} Lt. NAKAMURA waved the handkerchief. I saw through the telescope a fleet of 5 or 6 ships all gathered and anchored about 50 meters apart. I instantly began firing upon this fleet. The distance was about 4,000 meters.

8. Even after the dawn it was very difficult to see the ships clearly because of deep fog on that day, which was very typical on the Yangtse. I could only discern ships loaded with Chinese soldiers.

9. When we fired twenty or thirty shells, one of the ships put out a black smoke screen. After covering was completed by the smoke screen, one ship sailed toward us.

10. Seeing the ship coming toward us, we thought they were about to surrender, so we stopped the shelling upon them entirely. As the ship neared its hull became clear. When it came within 3,000 meters, we first discovered then it was not a Chinese army ship. At first it was not the distance but the heavy fog which made it difficult for us to tell these were not Chinese army ships.

11. After ceasing fire and while waiting for the ship to reach the wharf, we then found out by its flag that it was a

British ship and it had received two direct hits.

12. A rear admiral wearing staff officer insignia, the captain of the ship, his executive officer, and one other officer came ashore and asked us to meet for negotiations.

13. From our side Colonel HASHIMOTO, Lt. KAKAMURA, and I, together with one interpreter, took part in this negotiation. The first question they asked was why we had fired upon them. To this Colonel HASHIMOTO instantly replied, "we fired upon the ships because they were loaded with Chinese soldiers. Their next question was why we had fired on British ships. Colonel HASHIMOTO again instantly answered, "Due to the heavy fog we were not able to see and tell they were British ships."

14. Since one death had resulted from the shelling, the Captain of the British ship asked us to attend the funeral service. We sent one representative to this funeral service. This was held at the public hall.

15. This British ship was the "Ladybird". Later I learned that the matter of the Ladybird incident was taken up through diplomatic negotiations, but as to its details I know nothing.

16. Colonel HASHIMOTO and the Hashimoto forces had no connection whatsoever with the sinking of the American ship "Panay". We, the Hashimoto force, had never seen the "Panay".

17. The Hashimoto force was stopped at Wuhu, 14 or 15 "RI" (about 37 miles) from Nanking. Shortly after the fall of Nanking this force was ordered to advance to Hangchow and therefore never participated in the attack on Nanking nor did it enter into Nanking, or its vicinity,

18. The Hashimoto force did not attack Hankow nor did it enter Hankow or its vicinity.

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19. The Hashimoto force did not attack Canton (Kuang-Tung) nor did it enter Canton or its vicinity.

At the place of Mr. Itsuro Hayashi, No. 877, 3-Chome, Kami-Kitazawa-Machi, Setagaya-Ku, Tokyo, on this 11th day of January, 1947.

Signed and Sealed: OBATA, Minoru

I hereby certify that the above said person has duly sworn, subscribed and sealed thereto on before me.

On the same date and place.

Witness: signed and sealed: HAYASHI, Itsuro

Oath

In accordance with my conscience I swear to tell the truth withholding nothing and adding nothing.

TERADA, Masao (signed and sealed)