

CONFIDENTIAL.

BM/JAG/65128
HQ Allied Land Forces,
South East Asia Command.
22nd November, 1946.

786

Commander,
Singapore District.

War Crimes Courts.

Reference the proceedings of the trial by
Military Court of

(1)	Maj-Gen.	OTSUKA	Misao
(2)	Maj	KOBAYASHI	Shozo
(3)	Maj	KAMIYA	Haruo
(4)	Capt	YAJIMA	Mitsuo
(5)	Lieut	SUGIHARA	Kenji
(6)	Jud W.O.	OKI	Yeshio
(7)	Jud W.O.	KUBO	Shinkichi
(8)	Sjt Maj	HANAWA	Hatsuo
(9)	Sjt Maj	YOSHIJIMA	Kinichi
(10)	Sjt Maj	SHINOJIMA	Zinse
(11)	Sjt Maj	SATO	Takeo
(12)	Sjt	MORIMOTO	Ichiro
(13)	Sjt	NIIBARA	Hideo
(14)	Sjt	KOBAYASHI	Toshio
(15)	Sjt	KOGA	Tsutomu
(16)	Sjt	MURATA	Higazuchi
(17)			
(18)	Sjt	HIEDA	Isamu
(19)	Sjt	MINO	Teruo
(20)	Sjt	KAMATA	Takeshi
(21)	Sjt	SATO	Akira
(22)	Sjt	TSUKUDA	Keiji
(23)	Sjt	OKAMURA	Kazuo
(24)	Sjt	YAMANISHI	Nobuharu
(25)	Sjt	SHIMOI	Masao
(26)	Sjt	HATTORI	Tenji
(27)	Sjt	OKUDAHIRA	Masanori
(28)	Sjt	OTAKE	Kiyotaka
(29)	Sjt	YAMANE	Masatsugu
(30)	Sjt	KOYAMA	Unsaburo
(31)	Sjt	YAMASHITA	Atsushi
(32)	Cpl	HACHIYA	Jutaro
(33)	L/Cpl	HIROSE	Yeshio
(34)	GCP No. 1	NAKAMURA	Hideo
(35)	GCP No. 6	KADONO	Sneichiro
(36)	GCP No. 52	GOTO	Tatsuji
(37)	GCP No. 66	CHIKAMURA	Toshiharu
(38)	GCP No. 70	WATANABE	Heikichi
(39)	GCP No. 80	TANAKA	Teshiro
(40)	GCP No. 413	FURUHATA	Seigo
(41)	GCP No. 416	SAITO	Kosaku
(42)	GCP No. 419	NISHIDA	Keichi
(43)	GCP No. 430	SUGANO	Kurao
(44)	Maj-Gen	HIDAKA	Mineo

all of the Imperial Japanese Army,
attached REME Base Workshops.

and the attached petitions.

1. The accused were tried by Military Court at Singapore on August 8th to October 10th, 1946 on a charge of committing a war crime between Feb 1942 and August 1945 while responsible for persons in their custody in the Military Section of Outram Road prison were together concerned in their ill-treatment and neglect causing the deaths of British and Dutch POW and physical suffering to many Allied POW and civilians confined there. Accused 27, 33, 39 and 40 were acquitted. The charge against accused 17 was temporarily withdrawn due to his illness. The remaining accused were found guilty and sentenced as follows:

Accused 1,2,4,36 and 44 .. ..	.. ..	were sentenced to death by hanging
Accused 3,5,6,7 and 24 .. ..	.. ..	were sentenced to imprisonment for life
Accused 18 .. .. .	.. ..	was sentenced to 15 yrs imprisonment.
Accused 8,11,16 and 20 .. ..	.. ..	were sentenced to 12 yrs imprisonment
Accused 9,10,21,22 and 34 ..	.. ..	were sentenced to 10 years imprisonment
Accused 15 .. .. .	.. ..	was sentenced to 8 years imprisonment.
Accused 23,28,30,32,35 and 38	.. ..	were sentenced to 7 years imprisonment
Accused 13,14,19,25 and 31 ..	.. ..	were sentenced to 5 years imprisonment
Accused 12 and 41 .. .. .	.. ..	were sentenced to 4 years imprisonment
Accused 26,37,42 and 43 ..	.. ..	were sentenced to 3 years imprisonment
Accused 29 .. .. .	.. ..	was sentenced to 1 years imprisonment

2. The case for the prosecution is briefly set out in the Abstract of Evidence attached to the proceedings.

3. The defence by and on behalf of the accused was as follows:-

Accused 44 was the Chief of the Legal Dept. of the Southern Expeditionary forces from June 1943 to May 1944. The accused said that he knew how the prisoners in Outram Road jail were treated as he had made inspections and received reports from the commandant of the jail. Upon his inspections the accused said that there had been no role call of prisoners, and he had been guided by Accused 2. He had merely looked into cells and had not entered and admitted that he was not in a position to know if prisoners were sick. The accused further admitted that he had had weekly verbal reports from accused 2. The latter he said had received his orders in serious matters directly from Count Terauchi, and from the accused himself in merely minor matters, e.g. kinds of fatigues, and these he had decided on the advice of accused 2. The accused said that the state of health of the prisoners was a matter for the gaol commandant only and denied that he had known of scabies in the prison. He said he had heard of only one death, and that was caused by beri-beri, and he had made no inquiry as that was the province of the medical officers accused 4 and 5. He said that he was not able to give orders to accused 2, who was liable only to the G-in-C.

Accused 1, made an unsworn statement. He said that although he was not in a position to deny entire responsibility for the gael, he was not responsible for the conduct of minor matters, such as health, feed and such administrative matters. The accused said that he had a formal inspection of the gael twice, once in 1944 and once in 1945, the first occasion being accompanied by the C-in-C. The accused denied that there had been abnormal conditions on either occasion, the health of the prisoners being good and the cells clean, and added that he had always received good reports concerning the health and treatment of the prisoners. The accused said that he found it impossible to believe the allegations of the prosecution. The accused maintained that the ration scale in force was decided by high army authorities and was not capable of being altered. In conclusion the accused corrected part of his statement, saying that it was due to confusion of mind. He said that matters of health and feed were not the responsibility of the gael commandant, but of the Medical and Intendance Dept respectively.

Accused 2 who gave evidence on oath, was the commandant of the gael during the material time with one short absence. The defence of this accused was a denial of the allegations made by the prosecution witnesses and evidence. The accused denied that the cells were dirty and that the prisoners had little or no washing facilities, and said that cells were cleaned and disinfected daily, that clothes were washed and that prisoners bathed twice daily. With regard to medical facilities, the accused said that he had applied to HQ for a full-time medical officer and had been refused. The accused admitted that he was responsible for carrying out the instructions of the medical officer who came twice weekly. He said that he had taken all measures to prevent and cure scabies by supplying a lime bath for the prisoners and ointment. The accused said that this had been effective. Beri-beri cases had been sent to Changi before they became serious, but denied that there had been dysentery in the gael. The accused was vague as to the number of deaths which had taken place and while he asserted that there had been no deaths from ill-treatment or starvation admitted that he had burned all prison records including death certificates after the surrender on the instructions of Army HQ. With regard to rations the accused denied that rations for the sick were less than those of other prisoners and said that after the ration cuts in 1942 and 1944 he had implemented them with vegetables and livestock and in this connection denied that he had allowed edible feed to be fed to pigs.

Accused 3 who took over the duties of accused 2 during the absence of the latter from May to Sept 1944, elected to make an unsworn statement in view of the detailed evidence of accused 2. The accused stated that he had made no changes in the gael administration as he knew that his appointment was temporary and that accused 2 had laid down his policy. He said he had not ample time to supervise the gael as he was already carrying out three other duties, but said that he saw no ill-treatment, that bathing and sanitary arrangements were adequate, and that measures were taken to cure and prevent beri-beri.

Accused 4 was a medical officer attached to the gael. The accused said that he carried out duties at a hospital but from Nov 43 to Nov 44 he had had additional duties at the prison on the orders of Army HQ. He said that he attended both Allied and Japanese prisoners twice a week, when he prescribed treatment which was carried out by the medical NCO. He said that medicines were sufficient and that there were no serious cases of beri-beri and scabies. He denied that he treated only Japanese sick and that he could only enter cells with the permission of accused 2. There were no dysentery cases as he knew because he had carried out bacteriological tests. He said that civilians could not be sent to hospitals as the POW and Military hospitals would not accept them. Accused 5 was absent from the trial from Sept 13th to Oct 2nd due to sickness. He made an unsworn statement.

Accused 5 was medical officer at the gael from Dec 1944 to June 1945, and materially repeated the defence of accused 4. The accused stated that apart from his two weekly visits he visited the prison when his presence was necessary, and that he sent Allied prisoners to Changi hospital in spite of protests from Changi. The accused denied that there had been any deaths during his tenure of office at the prison. He stated that the health of the prisoners was on the whole good, remunerated the suggestions he had made to the commandant for improvement of the prisoners mentally and physically. The accused denied that he had been negligent.

Accused 6 was the senior guard in the prison. He said that he had never done guard duties but apart from office work had supervised the guards, whom he had told to treat the prisoners well. The accused said that the cells were kept clean and denied that he had ever ill-treated prisoners or seen ill-treatment by other guards, and maintained that the evidence given of brutality was false.

Accused 7 was the guard in charge of feed. He said amounts were served accurately to Allied prisoners, and that he had in fact given extra feed to the sick. He denied that he had halved the rations of the latter, but had in fact given the sick milk twice a day whereas the other prisoners received it once a week. The accused denied that he had reduced or stopped prisoners' rations as punishment, and that there had been deaths due to starvation. The accused said that the Allied prisoners received 30 grammes meat or fish per day the issue of which he personally superintended and which accused 31 distributed. The accused said that he had never ill-treated, or seen prisoners ill-treated.

Accused 24 made an unsworn statement. He admitted that he had carried out guard duties and had been in charge of the cook-house, but denied that he had decreased the amount of feed for the prisoners. The accused repeatedly denied that he had used violence against any prisoner and said he did not remember the Catholic priest.

Accused 36 made an unsworn statement saying that owing to sickness he had been with the fatigue party at Bukit Timah as an odd-job man and had not been there in the capacity of a workman. The accused said that as he himself was a prisoner he had to obey the commands of the guards. He denied that he had practised ju-jitsu, or that he had ill-treated the sick of whom he was in charge, and said he sympathised with them.

The remainder of the accused were guards, accused 34, 35, 37, 38, 41, 42 and 43 being good conduct prisoners. Their defences were denials of the charges of ill-treatment and neglect brought against them by the prosecution.

4. Petitions have been submitted on behalf of accused 1, 2, 3, 4, 5 and 44, on the following grounds:

Accused 1 and 44.

(a) The legal obligation of care for the welfare of a prisoner is in the person having the actual custody of him and not in persons having the duty of supervision, which if owed by accused 1 and 44 was a departmental duty and could only be departmentally punished, not legally.

(b) A public servant is liable only for the wrongful acts of his inferiors if he orders them or subsequently ratifies them, neither of which the petition holds, is proved against the accused.

(c) The Court did not properly appreciate the evidence of Lt-Gen Numata who clearly stated the accused were staff officers and only Commanders are responsible in the Japanese Army.

(d) The Court wrongly interpreted the extracts from the regulations produced by Gen. Numata accused 2. The defence maintains that they fully proved good intentions of the accused but that the Court did not give enough weight to it.

Accused 3 was only jail commandant for two months and had other duties to perform.

Accused 4 and 5 were part-time medical officers for short periods only, and the main responsibility was of the medical orderlies.

5. The accused were well identified and the evidence adduced by the prosecution was both ample, well-corroborated, and fully supported the findings and sentences which are well-balanced.

With regard to accused 1 and 44 there was evidence that both had inspected the prison during their respective terms of duty. General Numata made a sworn statement, in which he defined, according to the Japanese Army regulations the duties and responsibilities of both accused 1 and 44 which were to advise the C-in-C on all matters of goal administration and to make reports on matters which needed improvement or investigation.

In his statement Numata said that no report was ever submitted by 1 or 44. General Numata also gave evidence for the prosecution but owing to his demeanour and evidence permission to treat him as a hostile witness was accorded by the Court. There is no doubt that these two accused by virtue of their position were in a position to alleviate and improve the conditions of this prison had they made the reports which they were in duty bound to do.

I advise that the findings and sentences be confirmed and the petition dismissed.

Attached to the proceedings are three representations from various sources which cannot legally be taken into consideration since they are not petitions under Regulation 10. It is customary however to attach these representations since if they come from an unimpeachable source and are favourable to the accused it may sometimes be equitable to consider them when deciding on sentence. The only representation worth considering in this case is that from General NUMATA in favour of Major General HIDAKA. Since this is addressed to the Supreme Allied Commander you may feel that after confirmation it should be transmitted together with the proceedings to the C-in-C. There are two points for consideration in this petition

(1) That HIDAKA was not originally charged and that the addition of his name as accused No.44 was an after-thought. This is by no means the case. Ever since March last it was realised both by the late Colonel Wild and myself that HIDAKA was one of the chief offenders in this case, but at the time the charges were framed he was not in custody and it was thought that he was in Siam or Japan. All efforts to trace him had therefore been directed to the War Crimes organization in those countries. Finally, and quite fortuitously, he was discovered on Lieutenant General Numata's staff at Johore. He was then immediately arrested interrogated and charged. Although he was arrested at a late date his defence Counsel made no application for further time to prepare his defence. He was arrested on 31st July and trial took place on 8th August.

(2) General NUMATA contends that because HIDAKA was a Staff Officer he was not in actual command and could not therefore give orders regarding improvement of gaol conditions. But on the other hand it appears over and over again both in HIDAKA's evidence (p.280) and in NUMATA's evidence (p.491) that the head of the Judiciary Dept was responsible to Field Marshal TERAUCHI for conditions in Outram Road gaol. HIDAKA was head of the Judiciary Dept from June 43 to May 44. He himself admitted that the gaol Commandant was under an obligation to report to him on matters concerning conditions, food and deaths occurring. He (Hidaka) was similarly obliged to make inspections of the gaol to see the treatment of prisoners and he did so (p.254).

I would draw your attention to the cross-examination of General NUMATA (p.494) in which the following question and answer is recorded:

- Q. "Suppose conditions in the gael are bad, whose duty is it to advise the C-in-C ?
- A. (By Numata) "The Chief of the Judiciary Dept will be responsible in that respect in the sense of assisting the C-in-C".

It is only too obvious what conditions in Outram Road gael were like - brutality on the sick, no proper medicine or drugs available, scabies dysentery deficiency diseases, ulcers, abscesses and other complaints rampant, no effort to treat sick men, no bathing facilities, no proper exercise period and many men left in their cells for weeks, cells in a filthy and verminous condition, some prisoners for no apparent cause kept in solitary confinement throughout, by reason of which 2 prisoners at least lost their reason, totally insufficient food and a scale of rations for the sick which was systematic starvation.

HIMAKA (and OHTSUKA who preceded him in a similar position) were well aware of the condition of prisoners and of the prison itself; reports were frequently made to them by the Commandant and the certificates of the numerous deaths which occurred were filed in their office. Knowing these conditions the deaths and the causes thereof, and the sufferings of the prisoners they took no steps whatsoever to advise Field Marshal Count Terauchi. When it was their duty to do so, as a result of which these appalling conditions and loss of life continued. It is in evidence that from the time NUMATA became Chief of Staff no reports of the conditions in Outram Road gael were ever received at Southern Army Headquarters (p.495), nor did either accused contend that they had ever complained of such conditions.

For these reasons I do not consider that there is any force in the arguments put forward by General Numata.



Colonel,
Offg D.J.A.G. Allied Land Forces, S.E.A.

FCAK/RAP