

MILITARY COURTS FOR THE TRIAL OF WAR CRIMINALS

D.J.A.G's Case No. 65080 JAG

Name of Accused (including Rank, if any)	Arm or Former Arm of the Service	Age	Date and Place of Trial
Major Totaro MIZUTANI	Imperial Japanese Army.		20, 21, 22, 23, 24, 25, 27, 28 and 29 May, and 3 and 6 June 1946. SINGAPORE
			Convened by
			Commander, Singapore District.

CHARGES

1st Charge. COMMITTING A WAR CRIME in that he between 18 January 1943 and 14 November 1943, in Burma, in violation of the laws and usages of War, when engaged in the administration of British, American, Australian and Dutch Prisoners of War employed in the construction of the Burma-Siam Railway, was concerned in the inhumane treatment of the said Prisoners of War resulting in the deaths of hundreds of the said Prisoners of War and physical suffering by many others of the said Prisoners of War.

2nd Charge. COMMITTING A WAR CRIME in that he in the month of July 1943, at the Camp near APERON, in Burma, known as 83 Kilo Camp, occupied by Japanese and Prisoners of War engaged in the construction of the Burma-Siam Railway, in violation of the laws and usages of War, being in the service of the occupying Power, ill-treated a Burmese civilian inhabitant of the occupied territory causing physical suffering to the said inhabitant.

3rd Charge. COMMITTING A WAR CRIME in that he on 31 December 1944 at TAMUANG Prisoner of War Camp, Siam, in violation of the laws and usages of War, killed No. 4272350 Fusilier L.W. WANTY, Royal Northumberland Fusiliers, a British Prisoner of War interned in the said Camp.

President and Members of the Court (except Legal Member)	Judge Advocate/Legal Member
Lt-Col. G.A. PEACOCK. Dept of JAG in India. (Barrister-at-law). Lt-Col. C. MONOD de FROIDEVILLE. R.N.E.I.F. Major R.J. TOPPING. 6/8 Punjabs.	N/A

Pleaded	Finding
Not Guilty to all charges.	Guilty of all charges.

Sentence and Minute of Confirmation

Death by hanging.

Confirmed, GOC, Singapore District,
9 November 1946.

When and where Promulgated :—

20 November 1946.

Date of Receipt	To whom sent	Date sent	Purport

7

MILITARY COURT FOR THE TRIAL OF WAR CRIMINALS

ACCUSED

Major MIZUTANI Totaro of the
Imperial Japanese Army. att
223 B.O.D. Singapore.

PLACE & DATE
OF TRIAL

Singapore 20, 21, 22, 23, 24, 25, 27, 28 and 29
May, and 3rd and 6th June 1946.

COURT CONVENED BY

Commander Singapore District.

PRESIDENT

Lt-Col., G.A. FRACOCK, Dept of JAG in India.
(Barrister-at-law).

MEMBERS

Lt-Col., C. MONOD de FROIDEVILLE, R.N.E.I.F.
Major, R.J. TOPPING, 6/8 Punjabs.

CHARGE

See charge sheet attached.

PLEA

Not Guilty to all three charges.

FINDING

Guilty on all three charges.

SENTENCE

6 June '46. Death by Hanging.

CONFIRMED

9 Nov. '46. By G.O.C. Singapore District.

PROMULGATED

20 Nov '46.

REMARKS

22 Nov '46. The sentence of Death by
Hanging was put into execution
at CHANGI GAOL, Singapore.

DISPOSAL OF
PROCEEDINGS

To AG3 HQ ALFSEA 29 Nov 46
JAG of the Forces _____

DJAG ALFSEA.
Case No. 65080 JAG

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FIRST
CHARGE

COMMITTING A WAR CRIME

in that he

between 18 January 1943 and 14 November 1943, in Burma, in violation of the laws and usages of War when engaged in the administration of British, American, Australian and Dutch Prisoners of War employed in the construction of the Burma - Siam Railway, was concerned in the inhumane treatment of the said Prisoners of War resulting in the deaths of hundreds of the said Prisoners of War and physical suffering by many others of the said Prisoners of War.

SECOND
CHARGE

COMMITTING A WAR CRIME

in that he

in the month of July 1943, at the Camp near APERON, in Burma, known as 33 Kilo Camp, occupied by Japanese and Prisoners of War engaged in the construction of the Burma - Siam Railway, in violation of the laws/usages of War, being in the service of the occupying Power, ill-treated a Burmese civilian inhabitant of the occupied territory causing physical suffering to the said inhabitant.

THIRD
CHARGE

COMMITTING A WAR CRIME

in that he

on 31 December 1944 at TAMUANG Prisoner of War Camp, Siam, in violation of the laws and usages of War, killed No. 4272350 Fusilier L.W. WANTY, Royal Northumberland Fusiliers, a British Prisoner of War interned in the said Camp.

ABSTRACT OF EVIDENCE.

In the case of Major MIZUTANI Totaro.

1. Introductory.

In the Autumn of 1942 the Japanese began the construction of a railway line to link NONG PLADUK in SIAM with THANBYUZAYAT in BURMA. Both these places were on existent railway lines. The course of the new line ran through dense jungle in many places and crossed the border at Three Pagodas Pass. The Japanese used British, American, Australian and Dutch Prisoners of War for labour, together with coolies. Conditions were very hard and diseases and sickness became prevalent. In particular, the men suffered terribly from tropical ulcers which ate away large areas of flesh and in many cases necessitated amputation of the affected leg. Beri beri, dysentery and malaria were also common diseases.

Colonel C.H.D. WILD will be called as a witness of the above facts.

Medical evidence will be given as to the above mentioned diseases, their effect, and proper treatment.

FIRST CHARGE.

2. General.

For the purpose of construction, the route of the railway was divided into Sections - a body of Ps.W. being allocated to each Section. This body was known as a Branch or Group and was under a Commander who was responsible for all matters of accommodation, supplies, administration and camp control.

Branch No. 5 comprised American, Australian and Dutch Prisoners of War who worked from THANBYUZAYAT to a point round about 100 kilometres South down the line.

The Forces assembled at MOULMEIN on or about the 18 Jan 43 and comprised the following:-

Americans:-	456	under command of Lieut.- Colonel B.S. THARP.
Australians:-	350 (approx)		under command of Major ROBERTSON.
Dutch:-	1,200 (approx)		under command of Capt. VAN BEEN.

Total 2,006 (approx)

A few British Prisoners of War were attached.

The Base (or Branch) Camp was at THANBYUZAYAT until 21 Apr. 43, after which date it appears to have been at 80 Kilo and 83 Kilo. Other Camps were set up along the line from time to time as follows:-

18 KILO Work Camp From 25 Jan 43 to 19 Mar 43.

85 KILO Work Camp From 19 Mar 43 to 6 Apr 43.

80 KILO Work Camp From 6 Apr 43 to 29 May 43.
 100 KILO Work Camp From 29 May 43 to 27 Dec 43.
 83 KILO Work Camp July and August 43.
 30 KILO Casualty Clearing Station in April 1943.
 80 KILO Hospital From 16 June 43 to 28 Oct 43.

80 Kilo Camp was at APERON, and 100 Kilo Camp at ANGANAN which is close to the BURMA-SIAM Border. A map will be produced showing these Kilo Marks, and will be formally proved.

During the period from 18 Jan 43 to 14 Nov 43 the Accused was the Commander of No. 5 Branch. Of the original Force of Ps.W. a large number had died by 29 Dec 43. The total of American deaths is recorded at 98, of whom 90 died prior to 15 Nov. 43, and the deaths of the remaining 8 are stated to have been caused by ill-treatment and neglect prior to 14 Nov. The number of Dutch deaths has not been fully ascertained but is known to be not less than 450. The number of Australians who died is not precisely known, but there is evidence that at 80 Kilo Hospital Camp alone 30 Australians died between 6 August and 7 December. There were also a considerable number of Australian deaths at 100 Kilo Camp. Of the few British attached for part of the period, the deaths of 2 are recorded.

The causes of death of the Americans and British were as follows:-

	American	British
Tropical ulcers	49	1
Dysentery	25	-
Beri-beri	12	-
Malaria	4	-
Miscellaneous	8	1
	<u>98</u>	<u>2</u>

The Accused was responsible for the general lack of proper shelter, food, medical supplies, medical care and treatment, hygiene and sanitation, and other inhumane conditions and treatment which prevailed throughout the Branch. Further, he was responsible for the brutality and physical violence to which the Prisoners of War were continually subjected. He knew of this treatment, he sanctioned it, and on several occasions he himself actively participated in it.

Hereunder are set forth particular instances of the facts alleged above:-

3. March from 18 Kilo to 30 Kilo Camp 28 April 1943.

When Ps.W. were moved from 18 Kilo Camp to 30 Kilo Camp 168 Americans, Dutch and Australians were left as they were too sick to be moved. On 28 April '43 they were ordered to move to 30 Kilo. In spite of protests by the P.W. doctors and the offer by a Japanese Sergeant to provide transport, the Accused forced 155 of these sick men to march along the railtrack to 30 Kilo point. They had to march by night carrying their baggage and had to cross several incomplected bridges. They were threatened with machine guns and the Accused ordered the guards to shoot any stragglers.

4. March from 80 Kilo to 100 Kilo Camp 28 May 1943.

Prior to the move, sick Ps.W. were lined up at 80 Kilo Camp, some standing, some sitting, some lying on the ground. The Accused started at the end of the line, lashed the sick with his sheathed sword and kicked them. He ordered some to take off their bandages and kicked them in their tropical ulcers. Some were gripped by the hair and knocked down. Those who were unable to get on their feet again were selected to ride in a truck. All the others were forced to march a distance of 20 kilos. This included LINDSLEY who was suffering from acute hernia; he collapsed on the way and was carried the last few miles, dying after reaching 100 Kilo Camp.

5. 100 Kilo Work Camp.

This Camp became known as "Death Valley". Conditions were appalling. During the period June to October 265 Ps.W. died, mostly of tropical ulcers and malnutrition. By 14 November '43, 44 Americans had died at this Camp and between 28 May and 29 December 350 Dutch are stated to have died. One of the Americans died as a result of a brutal beating. There is evidence that medical supplies were available, but they were not given to the Ps.W.

6. 80 Kilo Hospital Camp.

This alleged "Hospital" was opened on the 1st July '43 to receive Ps.W. who were utterly incapable of work. The evidence shows that the Accused in fact intended it to be no more than a death camp. The accommodations consisted of 2 sheds of bamboo construction, of which one was completely useless. The other was not wet-proof and rain poured in. The sides were open. Open trenches served as latrines. No medical officers were allowed there until the 6th August and rations and medical supplies were virtually non-existent. Men died in their own filth and lay unburied for days.

The recorded deaths during the period 1 July to 7 December are as follows:-

Americans	44
Australians	30
Dutch	95
Total	169

This figure represents about 50% of the patients, and of the survivors many lost their legs as a result of tropical ulcers.

There is evidence that the Accused was fully aware of the circumstances and that he laughed when deaths were reported, saying that it did not matter if sick Prisoners died as they were no use to themselves, to the Accused, or Japan. He openly espoused a policy of abandoning the sick to their fate.

7. Move from 80 Kilo Hospital to 100 Kilo Camp.

In October '43 a number of sick Ps.W. in the Hospital Camp were lined up. Japanese soldiers gave a push. Those who remained on their feet were transported to 100 Kilo Camp for work. Those who fell down remained in the hospital.

8. Cutting rations despite superior orders to the contrary.

The Accused ordered a substantial decrease in the rations for sick Ps.W. on the ground that they were not contributing to the Japanese war effort. On one occasion some Japanese officers made an inspection of the Camp. They gave the Accused orders to give the Prisoners about 3 times the supplies which they were then getting. The supplies were available and were in fact issued for some days, but later the Accused told his subordinates to disregard the orders which had been given by the inspecting officers.

9. Torture of Australian at 80 Kilo Camp in April 1943.

In April '43 at 80 Kilo Camp an Australian Sergeant received a letter from a friend at another Camp. It was falsely alleged that there was a hidden message in this letter and the Sergeant was tortured with the object of forcing him to disclose it. He was brutally beaten with poles and rifle butts, burned with lighted cigarettes, and subjected to other methods of inflicting pain. The Accused personally participated in the torture.

10. Misappropriation of Ps.W. Supplies.

The Accused consistently appropriated food, clothing, blankets and medical supplies intended for Ps.W. This included Red Cross supplies. The words "Australian Red Cross" which appeared on some cases were painted over with black paint. Red Cross supplies were stored in the Accused's own quarters.

11. Evidence.

The Prosecution will proffer the documents specified in the First Schedule hereunder written.

The Sub-headings indicate the facts to which the respective documents testify particularly, but not exclusively.

SECOND CHARGE.

Torture of a Burmese civilian.

The Deponent Corporal Theodoor BOOTS (Affidavit No. 30) states that when he was working with the Japanese staff at 83 Kilo Camp in July 1943, one morning he gave some remnants of Japanese food to an aged sick Burmese man. MIZUTANI saw this and chased the Burman out of the kitchen. The latter came again later in the day and was caught by the Accused, who burnt him severely all over his face and body with a piece of burning wood from the fire, holding it against every part of the Burman's body, laughing sadistically. The man became unconscious and was carried by the Deponent to a Burmese Hospital about 1 Kilometre distant.

THIRD CHARGE.

Killing of Fusilier WANTY.

The evidence will show that:-

On 31 Dec 44 at TAMUANG P.W. Camp SIAM at about 2315 hrs a hut roll call was taken and it was discovered that No. 4272350 Fusilier L. W. WANTY, 9th Bn. Royal Northumberland Fusiliers, was missing. Shortly before midnight a shot was heard. Ps.W. were called to identify the body of a P.W. who had been shot. They identified it as the body of WANTY.

WANTY had that night visited a friend in another part of the Camp. It was a Camp rule that all Ps.W. should be in their huts by 2300 hrs. No warning was given to the Ps.W. that 2300 hrs was approaching, but at 2300 hrs a bugle call was sounded for "Lights Out". This was the only means of knowing the time as Ps.W. had been deprived of all watches. Very shortly after the bugle call WANTY left his friend's hut to return to his own hut. On the way he had to cross a bridge over a moat within the Camp, and at this point he was seen by the Witness MATSUYAMA Eiso, a Korean Guard on sentry duty.

The Witness MATSUYAMA Eiso will say that:-

He saw WANTY about to cross the bridge over the moat adjoining the road which divided the Camp into two.

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The Witness MATSUYAMA Eiso will say that:-

He saw WANTY about to cross the bridge over the moat adjoining the road which divided the Camp into two.

There were P.W. huts on both sides of the road. The Witness was then of the opinion that the P.W. was going to his hut on the other side of the road. He stopped WANTY, proceeded to escort WANTY towards the Guard Room as Guards had been ordered to do with P.W. found outside their huts after "Lights Out"; they were accompanied by the Witness YASUMOTO Nobuichi. On the way they met the Accused and Ensign TSUMURA. The Accused asked what was the matter, and the Witness replied that he had found WANTY at the bridge 10 minutes after "Lights Out". The Accused asked why the Witness did not kill WANTY and after the Witness replied that he could not do so, the Accused ordered YASUMOTO to hand over his rifle. The Accused, holding the rifle at the hip shot WANTY from a distance of about 3 metres. WANTY died almost immediately. The Accused ordered the Witness to report to the Camp Commander that WANTY had suddenly come out from under the darkness of a tree on the Camp boundary and tried to run away when ordered to stop, whereupon the Witness shot him. The Witness did not carry out these instructions but reported the true facts of the case to Capt. SUZUKI Zenki, the Camp Commander, and to Lieutenant USUKI the Guard Commander.

The Witness YASUMOTO Nobuichi, a Korean Guard at TAMUANG Camp, will say that he was present and corroborate the evidence of the Witness MATSUYAMA. He will say that:-

The Accused ordered MATSUYAMA, another Guard and himself, the Witness, to shoot WANTY but all refused; the Accused then shot the P.W. at a range of approximately 3 metres. After WANTY had been shot and fallen on to the ground the Accused kicked him in the head saying: "I will shoot him again if he is not already dead".

The Witness SUZUKI Zenki will say that:-

At about 2400 hrs on 31 Dec 44, he received a report from Lt. USUKI the Guard Commander that a British P.W. named WANTY had been shot and killed by the Accused. Later that night, the Accused informed the Witness that he had shot a British Prisoner of War inside the Camp whilst attempting to escape. The correct Camp procedure was for the Prisoner to have been taken under guard to the Guard Room for enquiries as to why he was not in his hut after "Lights Out".

The Witness USUKI Kishio will say that:-

On the night of 31 Dec 1944 it was reported to him that a Prisoner of War had been shot. He proceeded to the scene and found the Accused and others and a dead body lying on the ground inside the Camp. The Accused informed the Witness that he had shot the Prisoner because he had attempted to escape.

Lieut.-Colonel W. E. HARVEY, R.A.M.C., Senior Medical Officer of No. 4 Group TAMUANG Camp in his report states that:-

The Official Japanese verdict was that WANTY had been shot whilst escaping over the boundary fence, but the entrance and exit wound on the body were inconsistent with this story. The body was lying in a small drain inside the boundary fence.

Lieutenant Colonel H. S. FLOWER, 9th Bn Royal Northumberland Fusiliers, the deceased's Commanding Officer in his report states that:-

On the body were shorts, shoes and 2 ticals cash; which were inconsistent with an attempt to get out of the Camp.

Lieutenant Colonel H. H. LILLY, 1/5 Sherwood Foresters who was a P.W. in TAMUANG Camp on 31 Dec 44, in his affidavit states that:-

After the capitulation by JAPAN he caused a Summary of Evidence relating to the crime to be taken. The Witness YASUMOTO Nobuichi then testified to the facts herein before narrated. He exhibits the original signed copy of the Summary of Evidence.

The Prosecution will call the witnesses above mentioned and will proffer the documents specified in the Second Schedule hereunder written.

The FIRST SCHEDULE above referred to:-

General. 18 Kilo. 80 Kilo Work Camp. 85 Kilo.

1. Survey of India Map HIND 5000, Sheet N D 47 Fifth Edition
2. Affidavit by Lt. J.B. NELSON, U.S.Navy. 18 Oct. 45
3. Affidavit by Lt.-Col. B.S. THARP, U.S.Army. 13 Sep. 45
4. Affidavit by Major L.J. ROBERTSON, Royal Australian Engineers. 20 Mar. 46
5. Affidavit by Sapper C.C. PAYNE, R.E. 29 Mar. 46
6. Affidavit by William PATON, formerly R.A. 28 Mar. 46

March from 18 Kilo to 30 Kilo. 28 Apr. 43.

7. Affidavit by Capt. H.W. WRIGHT, U.S.Army. 6 Sep. 45
(See also affidavits No. 2, 4 and 15).
8. Statement by TOMITA Akiho with certified translation.

March from 80 Kilo to 100 Kilo. 28 May 1943.

9. First Affidavit by Major H.G. ELKIN, U.S.Army. 3 Sep. 45
10. First Affidavit by Capt. I.H. FOWLER, U.S.Army.
15 Sep. 45
11. Affidavit by Ensign J.B. NELSON, U.S.Navy. 5 Sep. 45
12. Affidavit by Gnr. L. SCHUUR, R.N.E.I.Army. 13 Feb. 46

100 Kilo Work Camp.

13. First Affidavit by Cmdr. W.A. EPSTEIN, U.S.Navy.
5 Sep. 45
14. Affidavit by Pte. H.W. BARASH, U.S.Army. 26 Sep. 45
15. Affidavit by Sgt. H.W. BOATMEN, U.S.Army. 7 Nov. 45
16. Affidavit by Cpl. W.S. SKINNER, U.S.Army. 45
17. Affidavit by Sgt. H. MANSVELD, Dutch Army. 18 Mar. 46
18. Affidavit by Sgt. L.M. BROWN, U.S.Army. 19 Dec. 45
19. Second Affidavit by Capt. I.H. FOWLER, U.S.Army.
15 Sep. 45
20. Statement by Lt. W.P.A. DITMAR, Netherlands R.N.R.

The FIRST SCHEDULE above referred to:-
(cont.)

80 Kilo Hospital Camp.

21. Affidavit by Capt. H.S. DAHLER, R.N.E.I. Army.
18 Apr. 46
22. Second Affidavit by Major H.G. ELKIN, U.S. Army.
3 Sep. 45
23. Second Affidavit by Comdr. W.A. EPSTEIN, U.S. Navy.
5 Sep. 45
24. Affidavit by Lt. R.A.L.J. WAASDORP, Dutch Royal Army.
26 Apr. 46
25. Affidavit by P.O. CHAPMAN, U.S. Navy. 3 Sep. 45

Move from 80 Kilo Hospital Camp to 100 Kilo Camp. Oct. 1943.

26. Affidavit by O.F. KLEIN, R.N.E.I. Army. 9 Mar. 46

Cutting Rations despite superior orders to the contrary.

27. Affidavit by Cpl. R.R. REED, U.S. Army. 31 Oct. 45
28. Affidavit by Sgt. D.F. JOHNSON, U.S. Army. 5 Sep. 45

Torture of Australian at 80 Kilo Camp in April 1943.

29. Affidavit by Sgt. J.E. ROGERS, U.S. Army. Sep. 45

Misappropriation of P.W. Supplies.

30. Affidavit by Cpl. T. BOOTS, R.N.E.I. Army. 27 Feb. 46

General.

31. Affidavit by Comdr. W.A. EPSTEIN, U.S. Navy, producing
Record of deaths. 2 Jan. 46
 32. Certified Analysis of the last mentioned Record.
 33. Statement by the Accused dated 26 Nov. 45
 34. Statement by the Accused dated 10 Jan. 46
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The SECOND SCHEDULE above referred to:-

35. Affidavit of Pte. Ronald Ernest DAVIES.
36. Report of Lieut.-Colonel W.E. HARVEY, R.A.M.C.
37. Report of Lieut.-Colonel H.S. FLOWER, 9th Bn Royal Northumberland Fusiliers.
38. Affidavit of Lieut.-Colonel Harold HUTCHINSON LILLY, exhibiting Summary of Evidence taken by his order on 18th Sep. 45.
39. Affidavit of Sgt. Wiley Woodrow WISDOM, U.S.Army.
40. Certificate of Identification of the Accused.

NOTE

Copies or Copy extracts of documentary evidence are attached.
The originals will be produced in Court and are open to previous inspection by the Defence at the Office of War Crimes Legal Section A.L.F.S.E.A. on appointment having been made.

In the case of Major MIZUTANI Totaro.

ADDENDA AND CORRIGENDA
TO THE ABSTRACT OF EVIDENCE.

Reference to Abstract.

Para 1. Expert medical opinion will be given as to the conditions and facts disclosed by the evidence.

Para 3. Substitute 28 March 1943 for 28 April 1943.

THIRD CHARGE.

Captain M.J. WOODROFFE HILL will be called as a witness. He will say that he was a P.O.W. at TAMUANG Camp in December 1944 and he lived in the same hut as WANTY, No.30; the hospital staff lived in this hut. He will produce a sketch plan of the camp. Between 2315 and 2330 hours on 31 December 44 a check roll call was ordered outside the huts. A party of Japanese officers, NCO's and an interpreter came to take it. It was found that WANTY was missing. After the roll call was finished the Japanese took Col. Harvey, the Senior Medical Officer, off with them. In the morning he told the witness that he had been taken to view WANTY's body which was lying in a shallow ditch inside the top boundary fence near the latrine. Col. Harvey got permission for the body to be removed the following morning and it was buried about 1600 hours that same day. In the morning Col. Harvey examined the body in company with Father Bourke. They informed witness that WANTY had been shot at close range. The bullet had entered the right side of the chest and come out just below the left shoulder in the back. The accused was living at TAMUANG Camp in December 1944. After the capitulation the Korean guard YASUMOTO Nobuichi told witness the whole facts of the shooting.

FIRST SCHEDULE.

No.8 An affidavit will be produced by 2nd Lieutenant C.B. EVERS that this statement was made voluntarily by TOMITA Akiho and is in the latter's own handwriting.