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BEFORE THE
MILITARY COMMISSION
convened by the
COMMANDING GENERAL,
United States Army Forces,
Western Pacific

UNITED STATES OF AMERICA

-vs-

HIKOTARO TAJIMA
TETSU KAMEMOTO
AKIRA NAKASHIMA (NAKAJIMA)
KIYONOBU NAKABAYASHI
MASUMI SAKASEGAWA
YOSHISUKE SUZUKI
YOSHIHARU HIRANO
SHIGEKAZU HUJIYAMA (FUJIYAMA)
KIYOSHI NAGATA
BANG/RO GOTO
MASAKI KAWACHI
OSAMU WAKITA
FUSAKICHI OTANI
HIKOJIRO INOUE

PUBLIC TRIAL

VOLUME NO. II
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MANILA, P.I.

DATE 27 Dec. 45

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AUTHENTICATION

THIS CERTIFIES that this Volume is a part of the official Record of the Proceedings of the Military Commission appointed by Paragraph 48, Special Orders No. 153, Headquarters, United States Army Forces, Western Pacific, dated 17 November, 1945, Paragraph 2, Special Orders No. 169, Headquarters, United States Army Forces, Western Pacific, dated 7 December 1945, and Paragraph 32, Special Orders No. 176, Headquarters, United States Army Forces, Western Pacific, dated 15 December, 1945, in the trial of United States of America against Hikotaro Tajima, Tetsu Kamemoto, Akira Nakashima (Nakajima), Kiyonobu Nakabayashi, Masumi Sakasegawa, Yoshisuke Suzuki, Yoshiharu Hirano, Shigekazu Hujiyama (Fujiyama), Kiyoshi Nagata, Bangaro Goto, Masaki Kawachi, Osamu Wakita, Fusakichi Otani and Hikojiro Inoue.

Dated 6 February, 1946.

Horace Harding
HORACE HARDING
Colonel, F.A.
President of Commission

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PUBLIC TRIAL

Court No. 1
High Commissioner's Residence
Manila, P.I.
27 December 1945

Met, pursuant to adjournment, at 0840 hours.

MEMBERS OF MILITARY COMMISSION:

BRIGADIER GENERAL DENNIS E. McCUNNIFF, USA
President
BRIGADIER GENERAL HORACE HARDING, USA
COLONEL VOLNEY W. WORTMAN, CAC
COLONEL RICHARD C. STICKNEY, Inf.
COLONEL HENRY W. HOLT, FA

APPEARANCES:

FOR THE PROSECUTION:

CAPTAIN CARL N. STOKES, Inf., Chief Prosecutor
1ST LIEUTENANT RALPH R. BLOODWORTH, Inf.
Assistant Prosecutor

FOR THE DEFENSE:

CAPTAIN GEORGE A. FURNESS, AC
1ST LIEUTENANT ALAN H. STEINMETZ, Inf.
1ST LIEUTENANT WILLIAM P. WESTON, FA
CAPTAIN JAMES D. MURTAUGH, QMC

INTERPRETERS FOR THE COMMISSION:

MAJOR HARRY D. PRATT, USMC
Staff Sergeant Yoshiaki Ogita
T/4 Susumu Honda
T/4 Joshi Yorioka

OFFICIAL REPORTERS FOR THE COMMISSION:

Philotas A. Tsokas
S. Cornelia Peveto

27 Dec 45

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P R O C E E D I N G S

Pursuant to adjournment, the Commission convened at 0840 hours, 27 December, 1945, at Court Number One, High Commissioner's Residence, Manila, P.I.

GENERAL McCUNIFF: The Commission will come to order. The Commission will now reconvene pursuant to the direction of the Presiding Officer given on 10 December 1945 and will proceed with the trial of the United States of America versus Hikotaro Tajima et al.

CAPTAIN STOKES: If the Commission please, the Commission members are present with the exception of Colonel Henry W. Holt, together with the Prosecution Staff, the Accused and their Counsel with the exception of Lieutenant Salzman who has been relieved, replaced by Captain James D. Murtaugh.

At this time the Prosecution submits for incorporation into the record of the proceedings, Paragraph 32 of Special Order No. 176, General Headquarters, United States Army Forces, Pacific, dated 15 December, 1945.

GENERAL McCUNIFF: There being no objection, Paragraph 32 of Special Order No. 176 is incorporated into the record.

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HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC

Special Orders)
 :
No.....176)

APC 707
15 December 1945

EXTRACT

32. Brigadier General DENNIS E McCUNIFF, USA, and

Colonel VOLNEY W WORTMAN, CAC, are detailed members of the military commission appointed by paragraph 48, Special Orders No. 153, cs, this headquarters, dated 17 November 1945, vice Major General BASILIO J VALDES, PA, and Brigadier General ARTHUR G TRUDEAU, USA, relieved.

Brigadier General DENNIS E McCUNNIFF, USA, is designated President and Law Member of said military commission.

BY COMMAND OF LIEUTENANT GENERAL STYER:

W A WOOD JR
Major General, USA
Deputy Commander
and Chief of Staff

OFFICIAL:

/s/ Benito Morales
BENITO MORALES
Colonel, AGD
Asst Adj Gen

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GENERAL McCUNNIFF: The Reporters who were not present at the Arraignment will be sworn.

CAPTAIN STOKES: Sir, all of the Reporters present, here, were at the Arraignment.

GENERAL McCUNNIFF: The Interpreters who were not present at the Arraignment will be sworn.

(WHEREUPON, T/4 Susumu Honda and Staff Sergeant Yoshiaki Ogita were duly sworn)

CAPTAIN STOKES: The new members of the Commission will be sworn.

(WHEREUPON, Brigadier General Dennis E. McCunniff and Colonel Volney W. Wortman were duly sworn)

GENERAL McCUNNIFF: For the benefit of the new members of the Commission the substance of the Arraignment

proceedings of 10 December 1945 will be read.

CAPTAIN STOKES: Sir, this Military Commission convened on 10 December 1945 at the High Commissioner's Residence at Manila for the purpose of arraigning the Accused in this case. All of the present members of the Commission except General Dennis E. McCunniff and Colonel Volney W. Wortman, not then appointed, and General Basilio J. Valdes and General Arthur G. Trudeau who have been relieved were then present together with the Prosecution staff, the Accused and their Counsel.

At that time six documents were incorporated into the record; namely, a letter order prescribing the regulations governing the Trial of War Criminals; a letter order authorizing the Commanding General, Army Forces, Western Pacific, to appoint a military commission for the purpose of trying the Accused in this case; a special order appointing this Commission together with the Prosecution and Defense Counsel; a special order amending the original order by naming new defense Counsel; a letter order to the Commanding General, United States Army Forces, Western Pacific, authorizing him to proceed immediately with the trial of the Accused in this case; and the Charge and Specifications now before the Commission in this proceeding.

The rights of the accused were read and each accepted the Defense Counsel designated by the Convening Authority. The Charge and Specifications were

read to the Accused. The Prosecution moved to dismiss as to Masao Suzuki and Zenichi Nishida because of insufficient evidence at the time and as to Satoshi Horii because of failure to locate and serve the Charge and Specifications. The motion was granted by the Commission.

Defense Counsel interposed a motion to dismiss the Case before the Commission for the following reasons:

1. Lack of jurisdiction.
2. The rules and regulations governing the trial of War Criminals are in violation of Articles of War 25 and 28 and deny the Accused the fair trial guaranteed by the Constitutions of the United States and the Philippines.
3. Failure of the United States to give notice of the impending trial to the protecting power of Japan.

After arguments by the Prosecution and the Defense, the Commission denied the motion of the Defense reserving its opinion on the question of evidence to a later date.

The next motion by the Defense was for four separate trials which was denied by the Commission.

The Defense moved for a Bill of Particulars which was sustained by the Commission. The Prosecution

agreed to submit the Bill of Particulars to the Defense on 13 December 1945.

The Commission at this time requested the pleas of the Accused and each entered a plea of "Not Guilty."

The Commission requested that at the time of trial the Accused be seated in the positions in which they are named in the Charge. The Commission also requested that a map of the area be prepared for the trial and that the Prosecution and Defense stipulate as to the ranks and commands of the Accused.

The Commission recessed and the Presiding Officer designated the time, place and date for the reconvening of the Commission for the purpose of proceeding with the trial.

CAPTAIN FURNESS: The only objection to that statement is a clerical error on the references to the effect that we contended that the Rules and Regulations governing the Trial of War Criminals were in violation of Articles of War 25 and 28. Our contention was that they are a violation of Articles of War 25 and 38. Otherwise, no objection.

GENERAL McCUNNIFF: The necessary correction will be incorporated into the record.

LIEUTENANT WESTON: If it please the Commission, at this time one of the Accused would like to enter a request for special counsel.

GENERAL McCUNNIFF: Has the request for the Counsel

been designated -- has the name of the Counsel been designated?

LIEUTENANT WESTON: No. The Accused wishes to designate his own Counsel.

GENERAL McCUNIFF: No objection.

MASAKI KAWACHI: I request, Sir, that Captain Murtaugh will be one of our Defense Attorneys.

CAPTAIN FURNESS: Am I correct that three other Accused make the same request?

LIEUTENANT WESTON: That is correct.

CAPTAIN FURNESS: Will you state for the record who they are?

LIEUTENANT WESTON: The four Accused desiring Captain Murtaugh as Defense Counsel are:

SUPERIOR PRIVATE MASAKI KAWACHI
SERGEANT OSAMU WAKITA
SUPERIOR PRIVATE FUSAKICHI OTANI
SUPERIOR PRIVATE HIKOJIRO INOUE

GENERAL McCUNIFF: Is there any objection?

CAPTAIN STOKES: No objection.

GENERAL McCUNIFF: He will be accepted as Defense Counsel. Are you ready to proceed, Captain Murtaugh?

CAPTAIN MURTAUGH: No, Sir. I need one more day to prepare to go to trial.

GENERAL McCUNIFF: Will you be ready by 8:30 tomorrow morning to go to trial?

CAPTAIN MURTAUGH: Yes, Sir.

GENERAL McCUNIFF: If there is no objection by the Commission, we will recess until 8:30 tomorrow morning.

(WHEREUPON, at 0915 hours, 27 December 1945,
the trial was adjourned until 0830 hours 28 December
1945.)