

Singapore Cases - Details of Trial Records

Compiled by Stephanie Beckman, Intern
U.C. Berkeley War Crimes Studies Center
Singapore Cases: No. 235/911
Mizutani Case

Accused: Major MIZUTANI Totare
of the Imperial Japanese Army

Place and Date of Trial: Singapore, 20-25, 27-29 May and 3-4
June 1946

Finding and Sentence: Accused - Guilty of all 3 charges -
Death by hanging
The finding and sentence is found in the statement by the
court following the court proceedings.

Charges: 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 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.

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 D.W.
WANTY, Royal Northumberland Fusiliers, a British Prisoner
of War interned in the said Camp.

Facts relating to the several charges: The abstract of evidence
was missing from the case file, therefore all evidence could
only be inferred from the closing addresses of the defence and
prosecution. In the D.J.A.G.'s review, there was reference to
the evidence used in the trial of the case. There was said to be
ample evidence with reference to the first charge to establish
that the accused was directly responsible. The second charge
evidence was in an affidavit of Corporal Boots. For the third

charge, eyewitness testimonies as well as affidavit evidence was used.

Accused handling of the charge: The accused said that he had neither ill-treated nor ordered the ill-treatment of any of the prisoners, that their living conditions and shortages of food and medical supplies were due to circumstances beyond his control and that he was constantly harassed by the demands of the Railway Engineers to provide sufficient numbers for the working parties on the Railway. He attempted to show that he had made efforts to provide extra food and medical supplies for the prisoners.

The accused denied the second charge saying that he did not remember ever having ill-treated any Burmese civilians within his camp.

Regarding the third charge he admitted having shot Wanty but said that he did so because Wanty was trying to escape.

Main issues of the case raised by prosecution and defence:

The defence and prosecution organized their closing addresses dealing with each charge separately and therefore the issues of the case shall also be organized that way.

A. First charge:

1) Victim of conditions

The defence argued strongly that the accused was a victim of conditions. He was a victim of the conditions of climate, ravages of illnesses and the acts of a strict military discipline over which he had no control. The defence argued that these were the real underlying causes.

The accused was the Commander of the 5th Branch Camp, but the camp staff should not bear the whole responsibility for deaths of POWs that occurred because they were constantly handicapped by conditions outside the camp over which they had no control. When the camp came under the direct command of the 5th Railway Regiment, conditions worsened considerably. The 5th Railway Regiment made impossible demands, which the accused was not in the position to refuse. The movement of sick POWs from the 100 Kilo Camp to the 80 Kilo Camp and forcing the sick POWs to work was ordered by the Commanding Officer of the 5th Railway Regiment. Therefore the actual responsibility should be charged against the higher authorities, who had commanded the accused. Work conditions were harsher also due to monsoon season. Therefore in many instances the accused had been forced to yield to the almost impossible orders of the 5th Railway Regiment with detrimental effects to the POWs. The supply of foodstuffs, medical stores and accommodation were the responsibility of HQ 42 Transit Camp Management, and other branches of the army, which were separate from the 5th Branch Camp. The 5th Branch Camp could not obtain sufficient foodstuffs, medical supplies and proper accommodation. Other foodstuffs and medical supplies,

which had been prepared for the POWs by the accused in Singapore, were all lost during the bombing and sinking of the ship. The peak of monsoon season also interrupted the supply of food and medical supplies.

The prosecution did not bring up the fact that the accused was a victim of conditions, as they were trying their best to prove his guilt.

2) Efforts made for the Prisoners of War

The defence argued that the accused did all humanly possible to alleviate the conditions of the Prisoners of War. In one incident, the accused directed his subordinates and managed to save about 965 Prisoners of War. The following day he risked his life to save the life of another Australian Prisoner of War. This showed that he bore no bad feeling towards the prisoners. The accused also dispatched the best POW Medical Officer to look after the POW patients. When there was not a sufficient food supply, the accused established a liaison office of the 5th Branch so that he could do all in his power to obtain these foodstuffs. When a sufficient supply of medical supplies could not be obtained, the accused supplemented them by issuing preventive solutions.

The prosecution argued that the accused made no effort for the Prisoners of War and neglected their needs. The affidavits of medical officers held the accused responsible for the great majority of deaths that did occur, and also said that the majority of those diseases were preventable. They submitted that there was no convincing explanation of the accused's failure to obtain medical supplies or an explanation of why the Prisoners of War failed to gain the advantage of those medical supplies. They argued that it was in the accused's power to obtain the simple treatment of food and rest, which would have made a difference in the number of deaths which occurred. They argued that all that happened could have been prevented.

3) Evidence

The defence did not think that the prosecution's evidence was sufficient. They only had 3 witnesses, who had no direct connection with the charge, and the rest was documentary evidence. They claimed that the prosecution attempted to overwhelm the Court by a flood of documentary evidence. They also argued that documentary evidence must always be considered as secondary evidence and no matter how much is presented must always be considered to be secondary in validity. They submitted that calling a witness to the stand was the best and only way to test the validity and accuracy of the evidence. Unfortunately, no such opportunity was given in this case, hence the defence questioned the validity of the evidence. They also argued that the documentary evidence was full of distortion, contradiction and exaggeration and

hence not reliable. In conclusion, the evidence of the accused was totally devoid of value and reliability.

The prosecution argued against the defence and said that due to the nature of the affidavits, with some 30 witnesses writing in different places, of different nationalities, and at different times, it is impossible that they should very largely, if not altogether, arrive at the same "distortions, contradictions and exaggerations." The prosecution argued that the evidence satisfied that the accused had been concerned in inhumane treatment and physical suffering, which caused to many Prisoners of War. They also mentioned the affidavits of medical officers, which held the Accused responsible for the great majority of deaths as reliable evidence.

B. Second charge

1) Evidence

The defence argued that the only thing that appeared to support the second charge against the accused is merely a few lines in the Affidavit of Cpl. Boots. They argued that it was not possible to rest the case on such meager evidence. They also argued that out of more than 40 documentary evidence tendered by the Prosecution there was not one to substantiate Cpl. Boots' statement. The defence also argued that Cpl. Boots contained many untrue statements designed only to create an unfavourable impression of the accused and was devoid of validity as evidence.

The prosecution argued against the defence saying that one credible witness was sufficient in all cases as stated in the Manuel of Military Law. The prosecution brought up facts which proved that the witness was correct and therefore thoroughly reliable in his account of the incident.

C. Third charge

1) Nature of the shooting

The defence argued that the shooting occurred as a punishment, because Wanty was caught after "lights out" with the intention to escape. The accused did not take careful aim when he shot Wanty and this indicated that the accused did not intend to murder Wanty. They submitted that the shooting was not done intentionally by the accused and was only a reflective action on the part of accused 1. However, the employment of firearms against prisoners attempting to escape was permitted in the Manuel of Military Law as well as in Japanese Military Regulations, so the action of the accused must be legal and defined as proper performance of his duty. Therefore the defence submitted that it was not a murder but an unfortunate accidental and automatic action due to a hallucination, which is evident from the fact that the rifle was fired without aiming.

The prosecution argued that the defence's claim about the accused thinking that Wanty was attempting to escape was unbelievable because the Accused himself admitted that

Wanty was running straight down the path and made no sign of attempting to get over the fence or even to turn towards it. Therefore Wanty was not running away from the accused at all.

The prosecution also addressed the accidental nature of the killing, that the accused pulled the trigger without intending to and without knowing it. The prosecution argued that because of the safety catch on the gun it was not possible that someone used to using the rifle like the accused would have been able to pull the trigger without intending to.

The prosecution also argued that the accused was not shot from behind due to three reasons. Firstly, due to the position of the bullet wounds which showed that the bullet went from the right breast to the left shoulder, which meant that the Accused was in front of Wanty when he shot him. Secondly, the medical report by Col. Harvey supported that the entrance of the wound was from the front. Thirdly, the time of lights out, which related to the relative positions of the Accused and Prisoner at the time of the shooting. Fourthly, the affidavit of Pte. Davies stated that the Accused shot Wanty through the back, but Pte. Davies had only heard this story second hand and hence his affidavit was unreliable.

This case was largely argued according to the facts of the case and the evidence presented. Due to the fact that the accused was found guilty by the court of all three charges and given the death sentence, we can conclude that the prosecution presented the evidence convincingly and convinced the court of the guilt of the accused.

[back to top](#)

© 2004, Regents of the University of California