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C O P Y

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate
APO 343

Case No. 7

UNITED STATES

VS

KITARO ISHIDA

REVIEW OF STAFF JUDGE ADVOCATE

1. The attached record of trial by Military Commission appointed by paragraph 12, Special Order No. 28, this Headquarters dated 29 January 1946 opinion and recommendation is submitted:

PERSONAL DATA CONCERNING ACCUSED

NAME: Kitaro Ishida; Quartermaster Corporal at Hirohata POW Camp

FAMILY STATUS : Married, two children

AGE : Thirty eight (38)

CIVILIAN EMPLOYMENT : Railway Engine Driver and Assistant Station Master.

2. SYNOPSIS OF CHARGES, OPINION AND RECOMMENDATION:

<u>Charges and Specification</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
Charge: Violation of Laws of War. Between 10 October 1943 and 1 September 1945 accused, a Japanese NCO, at Hirohata POW Camp, Osaka Area, Honshu, Japan, willfully committed brutal atrocities against American Prisoners of War.	Not Guilty	Guilty	Yes
Specification 1. Between 1 January and 1 June 1945 did mistreat and torture Moore, Konichy, and Midy, Cpl Waller and Pvt Jones, Elkins, Mandey, Mollner, Ligonk, Orr, Rucker, Darnall, Nyle, Thompson, Grady, Lundgren, Carrison, Chuck, Harlow, McAllister, Smith, Kisaner, Whiteman, Whiting, Badensky, Thial and other American Prisoners of War by striking and beating them with belts, clubs, fists, and ropes, immersing them in cold water, and by forcing water under pressure into their nostrils.	Not Guilty	Guilty	Yes
Specification 2. About January 1944 did torture Private Jones, Ward, Clark, Gibson, fireman 1st Class Duhlsted, Seaman 1st Class Magnensen and other American Prisoners of War by striking them and beating them with clubs and fists, immersing them in cold water and forcing them to stand wet and naked in the winter wind.	Not Guilty	Guilty	Yes

<u>Charge and Specifications</u>	<u>Plea</u>	<u>Finding</u>	<u>Legally Sustained</u>
Specification 3. Between 1 June and 15 August did willfully and unlawfully mistreat and torture staff Sergeant Malody an American Prisoner of War by beating him with a club and by forcing water under pressure into his mouth.	Not Guilty	Guilty	Yes
Specification 4. Between 1 June 1944 and 31 August 1945 did willfully and unlawfully mistreat and torture Allan an American Prisoner of War by striking and beating him into insensibility with fists and clubs.	Not Guilty	Guilty	Yes
Specification 5. About 28 May 1945 did willfully and unlawfully mistreat and torture Private Kenneth G. Johnson and Captain Sydney E. Seid American Prisoners of War by striking beating them with fists, clubs, and ropes and by immersing the former in water.	Not Guilty	Guilty	Yes
Specification 6. About 18 April 1945 did willfully and unlawfully, mistreat and abuse Private First Class Willie L. Ward, an American Prisoner of War by holding his head under water until he lost consciousness and by striking and beating him with a club.	Not Guilty	Guilty	Yes
Specification 7. About May 1945 did willfully and unlawfully mistreat and abuse Private L. D. Orr, Jr.; J. B. Garrison and 5 other American Prisoners of War by striking and beating them with a club.	Not Guilty	Guilty	Yes
Specification 8. Between 21 June 1944 and 1 April 1945 did willfully and unlawfully mistreat Jack Summerall an American Prisoner of War by forcing water under pressure into his mouth and nose.	Not Guilty	Guilty	Yes
Specification 9. Between 1 October 1945 and 1 July 1945 did wrongfully and unlawfully take and convert to his own use rations of foodstuffs, cigarettes and Red Cross supplies intended for Allied Prisoners of War.	Not Guilty	Guilty	Yes

Maximum Sentence : Death

Sentence Adjudged : Confinement at hard labor for 30 years.

Sentence Recommended : Approval of Sentence adjudged.

3. Record of trial of this case comes to this Headquarters for an automatic appellate review, the primary function of which is to assure that the accused has not been denied the rights and protection afforded him by pertinent rules before a Military Commission trying an accused War Criminal.

4. SUMMARY OF EVIDENCE:

a. For the Prosecution: Case-in-Chief. Evidence admitted that Japan agreed through the good offices of the Swiss Legation to apply "Mutatis Mutandis" the term of the Geneva Prisoner of War Convention. (Ex 1, B9)

As to Specification 1: Between 1 January and 1 June 1945 did mistreat and torture Moor, Konichy, and Nidy, Cpl Waller and Pvts Jones, Elkins, Munday, Mellner, Ligon, Orr, Ruckner, Darnell, Nyle, Thompson, Grady, Lundgren, Garrison, Chuck, Harlow, McAllister, Smith Kiener, Whistman, Whiting, Budensky, Thiel and other American Prisoners of War by striking and beating them with belts, clubs, fists, and ropes, immersing them in cold water and by forcing water under pressure into their nostrils. Findings: Guilty, except the words "and by forcing the water under pressure into their nostrils" of the excepted words, Not Guilty.

The Roster (Ex 2, R 9) establishes that the accused was intendant Corporal at the Osaka Prisoner of War Camp from 10 August 1943 to 17 June 1945 at Hirohata.

This incident may be referred to as the Thompson incident for ready identification. Exhaustive analysis of the evidence produced by the prosecution is affidavit form while not clear cut, indicates that each of the persons named in specification 1, was beaten and tortured as alleged with the exception of "forcing water under pressure into their nostrils," and that all of them were punished at a same time Thompson was beaten. The allegation that "other american prisoners" not named were subjected to the same torture is supported by the evidence in many of the affidavits relating to this specification that affiant was not able to identify all of the victims. (typical, Ex. 7, Sgt McIlvain, "...The names of the two prisoners beaten were Private McAllister of the Coast Artillery, and a private by the name of John Rucker. The names of the other four prisoners I cannot remember"). Beaten with Thompson were Munday, McAllister, Rucker, Mellner, Garrison and Chuck (P. 3 or Ex 4), Elkins, Waller, Lison, Orr, Moore, Darnell, Grady, Nidy, Lundgren, Smith, Kiener (P. 2 or Ex 6), Walner (P. 3 or Ex 8), Harlow, Donnell (Darnell?) (P. 4 or Ex 10), Konocky, (Konichy Ex 12) (P. 2 or Ex 11), Thiel (Ex 3), Harwall, Budensky, Whiteman, (P. 1 or Ex 14) and whiting (Ex 16).

This instance arose as a result of prisoners of war stealing rice while unloading a boat (Ex 3, R 9). The prisoners on their return from work in the evening and before and without supper were required to kneel until the culprits among them confessed. (Ex 4, R 11). Finally, after from one and one half (Ex 12) to five hours (Ex 11) of kneeling, a six (Ex 4, R 11) to fifteen (Ex 11, 18) confessed. Six confessed at the outset and the remainder confessed under threats, accusations and intimidations of their compatriots (P. 3 or Ex 12, Ex 3, 016 incl). After the confessing the innocent prisoners were allowed to eat. After the Commandant left about 8:30 PM, those who had confessed were mustered and released. They were then reassembled and beaten with pick axe handles, rope, 3" x 5' clubs and garrison belts across the buttocks, legs and face (Ex 11, 12, R. 16). When the victims collapsed they were thrown in a large tub of water (See Ex 97) with their hands and feet tied (Ex 12), or cold water from buckets was poured on them to revive them. Thereafter they were required again to resume the position of attention and the beating was continued (Ex 12). The torture continued for three hours (P. 4 of Ex 12) and in the course thereof one of the victims counted 150 blows on the face with belts and 20 on the buttocks with axe handles (Ex 12). Thompson was the most severely injured; his injury appeared to be permanent (Ex 13, R 16).

As to Specification 2: (About 20 January 1944 did torture Private James W. Jones, Willie Ward, Jappe Clark and Gibson, Fireman First Class Dahlstedt, Seaman First Class Magnanson and other American Prisoners of War by striking and beating them with clubs and fists, immersing them in cold water and forcing them to stand wet and naked in the winter wind.)

Pvt. James W. Jones and others (Ex 17) were caught taking rice and beans. He, with Pvts Willie Ward, Jappe Clark, Dahlstedt, Magnanson and Gibson were made to stand at attention for about an hour, then stripped and forced to squat naked in a tub of ice water, while "Ichidale"

(the accused) and Tygovin held their heads under water for about ten seconds. They had them stand and squat in the tub; Gibson passed out and they were then taken out and beaten while "frozen stiff". Finally, they were forced to stand at attention in a biting wind for about an hour and next day were back at work. The next evening the punishment was repeated by the guards who were drunk (Ex 18).

As to Specification 3: (Between 1 June and 15 August 1944, torture Staff Sergeant Thomas Melody, by beating him with a club and by forcing water under pressure into his mouth) Finding Guilty.

In proof of this specification it appears that accused caught Melody back of the galley in the evening. Accused called him aside and with his fists and bamboo stick beat him into unconsciousness, and threw water in his face to revive him. Then accused stuck a water hose in his mouth and forced water into his stomach until Melody again became unconscious. (P. 2 or Ex 19) (see also Ex 46). Accused jumped up and down on Melody's stomach forcing water out of his mouth and threw water in his face to revive him three times. Accused then beat Melody with a baseball bat over his body. (Ex 21, R. 20; Ex 22 R 20; Ex 23, R 21; Ex 24; R. 21; Ex 25, R 21).

As to Specification 4: (Between 1 June 1944 and 31 August 1945 torture Pfc. Allen, by striking and beating him into insensibility with fists and clubs). Finding, Guilty except "August 31" substituting the words "12 July" of the excepted words, Not Guilty, of the substituted words, Guilty.

The incident covered by this specification was not recounted personally by Pfc. Allen in his affidavit (Ex 30). However, Sgt. Walter L. Konichy witnessed this beating (Ex 26). Konichy was not a witness of the cause of the beating but was told by Allen that when digging a hole with a shovel his Japanese fiemen called Allen and Allen turned around quickly which made it appear that Allen was swinging his shovel on his guard. Allen was beaten by three or more guards across the buttocks with pick axe handles (P. 2 of Ex 26) he was then forced to kneel and they beat him across the front part of the leg above the knees as he was kneeling. After this, Allen became unconscious and "an American doctor gave him a shot to bring him to". (P. 3 of Ex 26). He was in such bad shape that he was excused from work and given special treatment. Ishida, "Suzy" and "The Monster" beat him (Ex 26 R 21). Allen was still in poor condition and running a temperature as a result of this beating when the Japanese surrendered (Ex 27). Wingate also saw Allen beaten (Ex 26).

As to Specification 5: (About 26 May 1945 torture Private Kenneth C. Johnson and Captain Sidney S. Seid by striking them with fists, clubs, and ropes, and by immersing the former in water) Finding, Guilty.

Pvt K. C. Johnson of the 31st Infantry, a prisoner of war had a shirt which Ishida believed to be dirty, (Ex 21) or an extra suit of underwear (Ex 29) or a pair of Allen's trousers were in Johnson's possession (Ex 30). Ishida asked Johnson for an explanation which Johnson was unable to give. Thereupon, Ishida, beat Johnson across the back of the thighs with a club (P. 3 or Ex 30). He beat Johnson also with a heavy hemp rope until Johnson passed out from pain. Ishida then threw water on him and revived him and continued to beat him until accused finally neglected to revive the unconscious Johnson and continued to beat him. The accused also forced water into Johnson's mouth through a hose with full force until Johnson became unconscious. He was then beaten and kicked by Japanese guards. (Ex 31. As a consequence of this beating, Johnson's face was swollen and bruised beyond recognition (Ex 32). Ishida also kicked Johnson and forced other prisoners of war to watch the beating (Ex 33). This happened on 28 May 1945 when eighty of the prisoners of war were preparing to leave Hirota. Johnson was so badly injured that he had

to be carried on a stretcher (Ex 46) to Nagoya. From the day of his beating until 6 September 1945 Johnson was in such bad condition that he could do no work whatsoever. (Ex 40) Here Captain Seid, the prisoner of war Surgeon, remonstrated, whereupon the accused hit Captain Seid twenty five or thirty times with a heavy hemp rope then accused walked away. Prisoners of war poked Johnson up and removed him to the dispensary where Captain Seid rendered medical attention. (Ex 30).

As to Specification 6: - Finding, Not Guilty

As to Specification 7: - Finding, Not Guilty

As to Specification 8: (Between 21 June '44 and 1 April '45 mistreat Jack Summerall by beating him and forcing water under pressure into his mouth and nose. Finding, Guilty.

Wilcox, (Ex 22), Miller (Ex 37), Bigelow (Ex 38), Rudd (Ex 39), and Smythe (Ex 40) were eye-witnesses along with all of the American prisoners of war who were forced to watch the torture of Summerall. The named persons by affidavit covered this incident. Summerall was said to have broken into a Japanese storeroom on a Japanese freighter (Ex 39) or stolen rice therefrom (Ex 40), or to have been detected working in another man's place (Ex 38). Ishida beat "Jack Surro" for at least two or three hours (Ex 22) with a club three feet by one-half inch in diameter for fifteen minutes (Ex 39). Then with Summerall at attention, a 1" rubber fire hose was inserted in his mouth (Ex 39), and nose, (Ex 38) and ears consecutively (Ex 37) for approximately an hour and a half. At the conclusion Summerall was carried to his barracks and was sick as a consequence (Ex 38).

As to Specification 9: (Between 1 October 1943 and 1 July 1945 accused converted to his own use rations of foodstuffs, cigarettes, and Red Cross supplies intended for Allied Prisoners of War. Finding, Guilty.

The principal basis of proof of this specification is a letter addressed to International Red Cross Representatives from Staff Sergeant L.S. Garner, Mess Sergeant, U.S. Army, dated 30 August 1945 from the Hirohata Sub-Camp of the Osaka Prisoner of War Camp. Sergeant Garner was Mess Sergeant of the Prisoner of War mess until 1 July 1945 while Ishida was in charge of the issue of food to the kitchen. Sgt Garner lists the removal of much foodstuff and other Red Cross supplies from the Prisoner of War stores by Ishida for his own use.

b. For the Defense:

The accused being fully advised of his rights by his Counsel, advised the Commission that he elected to testify under oath. He first served from 26 June 1944 at the Italian Camp and slept there. He remained at that camp until 15 July 1944. From 1 February 1944 he also had charge of supplies at the American Camp where he spent a short time two or three times a week, about 2 hours per day, (Ex 33). On 20 January 1944, (To, e of Spec. 1 & 2) he was at Tsumori Camp and had no connection with the American prisoner of war Camp. Fujita who looks like him was at the American Camp at that time. He admitted with respect to Specification 1 that he had beaten some American Prisoners of War (R/ 34). He did not remember any group punishment of American prisoners of War during the first part of 1945. He recalled the instance sixteen prisoners of war being punished for stealing rice in January 1945. Sgt. Kimura, his superior, ordered him to punish these prisoners of war (R. 35). He could not have prevented this punishment. He lined up the men and went down the line lightly giving each prisoner of war one or two blows. The club was about one meter long. Then he left for the Japan Steel Co. The punishment started about 7:30 P.M. Almost ten guards assisted in the punishment. The other guards were beating the prisoners of war when he left. When he returned at 9:00 P.M., there were no more beatings. It had not been necessary to conduct an investigation to determine the guilty. The ship employees had told him who were guilty. He did not give them the water "cure" and knew nothing about it. (R. 37).

hit Jones, Ward, Glar, Gibson, Dehlstedt, Wagnerson, immerse them in cold water or cause them to stand naked in the wind.

With respect to Specification 4: Between 1 June and 15 August '44 he beat and tortured S/Sgt. Melody in July or August 1944. Melody was playing a musical instrument and failed to salute the accused. Accused pushed Melody's back and Melody pushed him with his right hand and shoved accused against the wall. Nearby was a handy bamboo stick four inches by four feet which the accused used to strike Melody in the rear three times. After the incident he reported it to the Camp Commandant. Motoyashiki gave Melody the "water cure".

As to Specification 5: He recalled when Capt. Seid and Johnson were beaten. Motoyashiki made Johnson kneel on bare on a box and slugged him. Capt Seid tried to stop the beating so Motoyashiki slugged him, also. Accused also tried in vain to stop the beating (R 40). He did not beat either Johnson or Captain Seid. There was one witness to this incident but accused could not recall his name. Motoyashiki had charge of clothing and Motoyashiki punished Johnson for an infraction of clothing discipline. Accused had no authority over Motoyashiki (R 41).

As to Specification 6: On 10 April 1945, he did not beat Ward or hold his head under water. There are no scars on his left leg. The Commission as a result of visual inspection noted a small scar on his right leg one inch by one-half inch, the outer side three inches below the knee. Accused walked across the court room to show the Commission his manner of walking. (R 42). Two Japanese soldiers in the Camp walked with a limp, Motoyashiki and Miyamae (R 42).

As to Specification 7: He did not beat Orr, Garrison or any of the prisoners of war except as he had testified. He had never had a scar near his eyes (R 42). The Commission as a result of visual inspection noted fang marks below the outer edge of one of his eyes. (R 43).

As to Specification 8: Between 21 June 1944 and 1 April 1945 he did not beat Summerall or force water under pressure into Summerall's mouth or nose or ears (R 43).

As to Specification 9: While he was there the American Camp did not receive any Red Cross packages. Some arrived on one occasion only (R 43). They were in the sole control and possession of the prisoner of war leader Erenbrock, who kept them under lock and key and they were distributed by Erenbrock once or twice a month (R 43). Accused did not require American prisoners of war to "kick back" supplies. He had never taken food, supplies or cigarettes intended for American prisoners of war. He had taken rations and food stuff of the post which he had purchased and with the permission of the Camp Commandant. These rations were supplied by the Nippon Steel Company (R 44). He had never caused anyone to hide food for him. Fujita and Kinura were often mistaken for the accused at the American Camp. Referring again to Specification 1, he had struck lightly some sixteen prisoners of war but the specification names twenty-six or twenty-seven named and accused believed that some of those named were not even in camp. He believed that the incident described in Specification 2 transpired before he arrived at the camp (R 47). With respect to Specification 3 it was Motoyashiki who beat the medical officer and not the accused. With respect to Exhibit 23, he was certain that it was Motoyashiki who did the beating. Exhibit 30 and 32 days vristly yhay Motoyashiki did the beatings. As for Specification 6, he knew nothing of the matter and he did not have scars on his legs or face, nor did he walk with a limp, the same for Specification 7. As for Specification 8, the beating and water torture of Summerall appeared to relate to the punishment for stealing rice from a ship which appeared to ~~be~~ be the subject of Specification, Exhibit 38 concerned an incident that happened to a prisoner of war while on a labor detail over which accused had no authority

(R 26). Motoyashiki was the only one who had possession of the "baseball bat" or Navy reform bat. As to Specification 9 and Ex 41, there was no leader in charge of thirty kitchen workers. Mess Sergeant Garner's letter was untrue; Garner was mistaken about the tobacco being taken as he did not understand that there was both a tobacco ration and tobacco for sale and that the tobacco supply rapidly diminished near the end of the war, (R 48). He had no control over Motoyashiki (R 50). He did not report that he remembered by name only Erenbrack, Dayton, Garner, Daid, Rin, Davis, and Borjin (R. 51). In his affidavit to the prosecution in which he had appeared to say that he had conducted an investigation to determine those who were guilty of stealing rice from the ship the interpreter had misquoted him (R 59). Erenbrack conducted the investigation (R. 61).

KOKICHI AKAKAWA, had been stationed at Hirohata Prisoner of War Dispatch Camp as an officer of the garrison from middle of April 1944 until 20 June 1944. The accused was the intendant or Quartermaster NCO. Accused was quartered in the Italian Prisoner of War Camp. Duties of accused took him to the American Camp three or four times a week. He was always back in the Italian Camp by 5:30 p.m. for supper. He was very changeable and when he was good he was very good. (R. 65).

HIRO NARAWA, served as a garrison officer at subject Camp. He arrived there 22 July 1944 and left 6 May 1945. In February or March 1945, some prisoners of war stole rice. They were punished on the order of Sgt. Kinura, second in command. Ishida reported to the Camp Commandant that Melody had failed to salute him and that Melody displayed an opposing attitude and that accused had punished him. Ishida was permitted to take from the Camp food that he had purchased. The Red Cross articles were stored under lock and key in vacant barracks. Erenbrack had the only key. (R 67). The Camp Commandant directed Erenbrack to conduct the investigation to determine those guilty of stealing rice from the ship (R 69). The Camp Commandant told Erenbrack to be cautious in conducting the investigation (R 69).

KINJI MATSUDA, Assistant Station Master, Hyogo Station, was a character witness for accused and read a letter on his behalf signed by 97 other persons.

ICHIRO MURAI, worked at Hirohata Prisoner of War Camp from April 1943 to August 19, 1945 as liaison between the Steel Co. and the Prisoner of War Camp. The Steel Company sold food to the Army at the Prisoner of War Camp.

c. Prosecution on Rebuttal:

CPL KAORU FUJITA, witness for the prosecution on rebuttal. He worked at Hirohata Camp from August 1943 to October 1944. Cpl. Fujita and the accused were observed side by side by the Commission. Ishida appeared to be three inches taller than Fujita. Fujita had charge of the prisoner of war work details. While at the Camp his hair was short. So far as he knew he had never been mistaken for the accused.

TOSHIO MIYAMAE, another witness for prosecution on rebuttal served as a guard at Hirohata Camp from 25 October 1943. He walked for the Commission and displayed a limp. So far as he knew he had never been mistaken for the accused (R 81).

SHICHI MOTOYASHIKI, prosecution witness on rebuttal served at Hirohata Camp from October 1942 until end of the war as a civilian attached to the Army. He was formerly a sailor. His left leg had been injured. By inspection the Commission noted that he had a scar on his left leg five inches long, circular in outline started 2 inches above the ankle. Ishida was his superior. He had punished an American prisoners of war. He had seen water thrown on prisoners but had never seen the water "sure" treatment used (R 83). On the day eighty or ninety prisoners of war were transferred to another camp he found one prisoner with two shirts. When

he had finished checking the other prisoners he found Ishida had taken that prisoner away and was beating him. Accused beat him in the rear with a shidobo, a club one inch in diameter and two feet five inches long. Swinging the club with both hands. Motoyashiki saw seven or eight blows, and he also beat the prisoner and knocked him down. After the beating the prisoner was treated at the hospital Captain Seid saw the punishment also (R 84). He identified as former prisoners of war whose names he did not know, the two principal figures in Ex 46 demonstrating the water cure (" 85). He made and carried a chokushinbo club while a guard at the Camp. He did not recall being stopped by Ishida from causing a prisoner of war to kneel on bars on a box (R 88). He and Ishida used only a club on the prisoner of war, they beat jointly, no fists or ropes. He threw water on the prisoner to revive him. He did not put him in the tub.

ZIN DOMENICA, formerly in the Italian Navy was interned in the Italian Section from 9 September 1943. He was moved into the American Section from 16 July 1943 until 6 January 1944. He identified the accused. He had personally seen him beat American prisoners and throw them in water tubs, beating them in the face with a belt. Ishida did most of the beating done in Camp; Ishida beat prisoners with a rope, a belt and each of the instruments shown in Exhibit 45. He saw Ishida take Red Cross goods, five pairs of shoes, clothes for shirts, and leather. Ishida tubbed Americans in tubs similar to that shown in Ex 47 (R 94). He had seen Ishida give the water cure to American prisoners (R 99). He saw Ishida beat an American prisoner with a club like that marked #1 in Ex 45 at ten o'clock one morning. Another time about five P.M. he saw Ishida force an American prisoner to put his head under water and beat him on the head when he sought to raise his head. When the prisoner's stomach was full of water Ishida kicked him there to remove the water. He was forced by Ishida to watch this punishment.

5. OPINION

Specifications 1 and 2 present a problem which has given the reviewer much trouble. The question raised by these specifications is based upon the premise that the accused should not be found guilty for the same act of the allegations of both Specifications 1 and 2. At first and until careful analysis was made it appears that Specification 1 was based on the so-called "Thompson" incident. That is, the story best described probably by Konichy (Ex 12) - the principal subject of the Exhibits 3 to 18 inclusive and mentioned also in other Exhibits. While accounts differ probably sixteen prisoners of war stole rice from a ship that they were unloading. That night all three hundred American Prisoners of War at the Camp, after work and before they ate were kept kneeling until the sixteen confessed. The sixteen apparently missed supper and mustered at eight thirty P.M. After the Camp Commandant left about eight thirty, the sixteen were again called out and were beaten with pick axe handles and farrison belts. Cold water or ice cold tubbings or both were given to the unconscious. The torture lasted for three hours. Thompson was the most severely injured of this group.

The question presented by this record which could not be readily answered by the prosecution when asked by the Commission was whether Specifications 1 and 2 included beatings and torture in addition to the Thompson affair. However, painstaking analysis supports the Commission in its findings that each of the named prisoners of war in Specifications 1 and 2 was beaten and tortured as alleged the pleadings concerning two separate and distinct incidents.

The findings of guilty which were returned as to the other specifications with the exception of Specifications 7 and 6 were amply supported by the evidence.

Any punishment of a convicted war criminal up to and including death is legal. Per 357, RM 27610. Here the Commission sentenced the accused to thirty years at hard labor. The case so far as this record goes, indicates that there were no beatings at the Camp until Ishida arrived, that Ishida was connected with all of the beatings indicated in the records and either gave them or permitted his subordinates including Shinichi Motoyashiki, a civilian attached to the army to give them. It appears to be more than likely that

Thompson and Johnson suffered permanent injuries from the torture instigated and given to them by Ishida. In mitigation for Ishida it may be granted that punishment for the men who stole rice was ordered by the Camp Commandant or by Sgt. Kimura, second in command. But it does not appear that the particular form of punishment given, to-wit unmerciful beatings with belts and clubs by ten or more guards and submersion in ice cold water was prescribed. The sadistic character of the illegal punishment given without judicial trial (in violation of the laws of war, see Par. 356, FM 27-10, the Japanese Shobatsu which would seem to permit this, to the contrary notwithstanding) more than offsets any considerations that can be stated for the accused in mitigation or defense. The record establishes clearly that the accused was a vicious, brutal character of avaricious habits and for his convicted offenses thirty years does not appear excessive.

6. RECOMMENDATIONS:

I have examined the petitions for clemency on behalf of accused, which petitions stress that accused is a man of good behavior, quiet, and industrious, his family is poor, and his parents aged, his wife and two children are dependant upon his income, and he is full of repentance for his wrongs.

The efforts of accused's friends excite deep sympathy, but in the administration of justice, lack justifiable substance for extension of clemency at this time.

It is recommended that the sentence be approved.

A form of action designed to carry into effect the foregoing recommendation is attached for your consideration and signature, should it meet with your approval.

/s/ G. R. DOUGHERTY
G. R. DOUGHERTY
Major, A. C.
Acting Asst Staff Judge Advocate

I have read the record of trial and
I concur in the foregoing review.

Army Staff Judge Advocate

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Commanding General
APO 943

_____ May 1946

In the foregoing case of Kitaro Ishida, the sentence is approved and will be duly executed. The Sugamo Prison, Tokyo, Honshu, Japan is designated as the place of confinement, or elsewhere as the Supreme Commander for the Allied Powers or other proper authority may direct.

R. L. EICHELEBERGER
Lieutenant General, United States Army
Commanding