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

Yokohama, Japan  
17 September 1948

UNITED STATES OF AMERICA VS YAGOHEIJI IWATA

Review of the Staff Judge Advocate

1. The attached record of trial in the case of Yagohei Iwata at Yokohama, Japan, from 31 March 1947 to 3 April 1947, by a Military Commission appointed by paragraph 1, Special Orders No. 72, Headquarters Eighth Army, United States Army, dated 27 March 1943, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Yagohei Iwata	DATE OF CONFINEMENT: 30 September 1946
AGE: (not shown)	DATE OF ARRAIGNMENT: 31 March 1947
RESIDENCE: (not shown)	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married - 4 children	PERIOD OF TRIAL: 31 March 1947-3 April 1947
RELATIVES: (not shown)	DATE OF SENTENCE: 3 April 1947
EDUCATION: Eight years	SENTENCE: CHL for 12 years.
VOCATION: Agricultural worker	CLEMENCY RECOMMENDED BY COMMISSION: No
MILITARY CAREER: Japanese Army - dates not shown.	

2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency and Sentence;

<u>Charge and Specifications:</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
Charge: At times and places set forth in the specifications hereto attached, and during a time of war between the United States of America, its Allies and Dependencies, and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: On or about 24 September 1943, accused, singly and with others, did willfully and unlawfully mistreat and torture Marine Third Class A. A. Peters, a Dutch Prisoner of War by beating him, by throwing him on the ground, by hanging him by his hands from a post, by holding his head back and forcing him to swallow a bucketful of sea water, by placing him in solitary confinement and by otherwise abusing him.	NG	G except for words "a bucketful of" and "by placing him in solitary confinement". Of the excepted words, NG	Yes
Sp 2: Between 1 October 1942 and 31 October 1943, accused did, with another, willfully and unlawfully mistreat and torture Sub-Lieutenant W. J. M. Bennett, a British Prisoner of War, by beating and otherwise abusing him.	NG	G	Yes
Sp 3: Between 1 October 1942 and 31 October 1943, accused did willfully and unlawfully mistreat and torture Sailor R. A. Furrer, a Dutch Prisoner of War, by beating and otherwise abusing him.	NG	G	Yes
Sp 4: That on or about 23 May 1943, at Fukuoka Prisoner of War Camp Number Two, Koyagimura, Nagasaki, Kyushu, Japan, the	Withdrawn by Prosecution (R 55).		

Charge and Specifications:

Pleas

Findings

Legally Sustained

accused, Yagoheiji Iwata, did willfully and unlawfully mistreat and abuse the inmates of rooms 5 and 13, all Allied Prisoners of War, by punishing them collectively for the alleged infractions of individual Prisoners and by forcing them to stand at attention from approximately 2030 hours until 2130 hours.

Sp 5: That at various times between 1 October 1942 and 31 October 1943, at Fukuoka Prisoner of War Camp Number Two, Koyagimura, Nagasaki, Kyushu, Japan, the accused, Yagoheiji Iwata, did willfully and unlawfully mistreat, torture, abuse and beat numerous American and Allied Prisoners of War.	NG	G	Yes
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3. Summary of the Evidence:

a. For the Prosecution:

(1) The accused was a Sergeant in the Japanese Army and was on duty at Prisoner of War Camp Number Two, Fukuoka, Japan. The Camp was located near Nagasaki, Japan and accused was on duty thereat from November 1942 to October or November 1943 (R. 40, Pros. Ex. 2). The accused was identified in open court by his own name and by the nickname "Flip" (R. 10 and 17, Pros. Ex. 3), and "Galley-nip" (Pros. Ex. 3).

(2) As to Specification 1: PW Peters some time in September 1943 was held responsible for some stealing. After interrogation Peters was brought in front of main office and beaten by all Japanese, including Iwata (R. 22). Iwata was the highest in rank present (R. 10). The beating was done with fists, sticks, wooden clubs and a water-soaked piece of rope. Peters was thrown to the ground many times by Judo holds. After the beating, he was tied to a post and suspended by his arms so his feet cleared the ground. In this position he was beaten with a big stick. After a period of this he was let down. By direction of the accused, Peter's head was held back by a few soldiers and a piece of cloth was placed over his mouth and sea water was peured over his face - some of the water was swallowed. This caused a swollen belly. After the incident, Peters was placed in a cell. The accused started the beating of Peters (R. 57) and threw Peters on the ground using jujitsu grips (R. 57).

(3) As to Specification 2: PW Bennett entered the camp kitchen one evening in order to obtain some water from a fresh water tank. He spoke to a Japanese soldier about the water and received an answer which he took to mean approval. When the soldier saw him take the water he ordered Bennett to be brought to Sergeant Iwata, the accused. Bennett, through the interpreter, told the accused he thought he had received approval to take the water. The accused ordered PW Bennett to stand at attention, then started throwing him to the floor, using jujitsu grips. Bennett was thrown about 50 times to the floor (R. 12). Bennett was thrown by the accused on a concrete floor. PW Bennett landed on his back across a large wooden bench. After this Bennett was made to stand at attention and the accused beat him with a big stick the size of a baseball bat. The accused was the senior non-commissioned officer present, and when the accused finished, he directed the other Japanese personnel to continue the beating (R. 13). Prosecution Exhibit 1, a statement of PW N. J. M. Bennett, corroborates the testimony in most instances. Bennett states he was thrown to the floor several times and then was beaten by the accused. Bennett's Affidavit states the incident arose out of a misunderstanding of what Japanese guard told him when he was washing.

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(4) As to Specification 3: PW Furrer returned from a labor detail with his mess kit filled with rice, and a few Red Cross articles, such as sugar. He had taken it with him in the morning and had left it over a furnace and during the day the food in the mess kit had melted and run over. This food was discovered at an inspection on return to Camp. The accused called Furrer to the front of the guardhouse and then started beating Furrer. Accused beat him with his fist and then with a club the size of a baseball bat. When Furrer could not regain his feet, the accused would pick him up, put his foot behind Furrer and then push him over (R. 14).

(5) As to Specification 4: Specification 4 was withdrawn by the Prosecution.

(6) As to Specification 5: On or about 23 May 1943, the accused made an inspection of PW quarters and mess kits. The accused was not satisfied with the results of his inspection. In rooms 5 and 13, the accused told the room chief that the men would have to stand at attention until he allowed them to go to bed, as punishment for not cleaning properly. This punishment was imposed for about an hour and after a strenuous day of labor, many of the men fainted (R. 16). In the absence of the camp commander, the accused was highest non-commissioned officer present and had complete charge of the kitchen. On several occasions the accused would have all occupants of a room chased around the camp. This practice would continue until some of the men fell down and fainted (R. 18). The accused on many occasions did not have a good reason for beating Prisoners of War (R. 29). In Prosecution's Exhibit 2, the accused is alleged to have been on duty as mess sergeant from the Fall of 1942 until November 1943. The accused inflicted severe beatings on practically every one in camp. Accused further diverted Prisoner of War rations to his own use and wilfully obstructed the best preparation of food by the kitchen detail. In Prosecution's Exhibit 3, the accused is alleged to have become enraged at the least provocation. On an undisclosed date the accused seized one of the Prisoners of War on duty in mess, forced the Prisoner of War to his knees and was attempting to strike him with his sword. Accused was disarmed by other guards. Accused is further alleged to have sold Prisoner of War supplies to his own benefit. In Prosecution's Exhibit 4, accused is alleged to have frequently lined up the entire galley men and hit each man with a wooden club. Accused was further seen to have slapped Prisoners of War about 500 times.

b. For the Defense:

The accused was duly advised of his rights by the Commission and elected to be sworn as a witness and testify in his own behalf. (R. 42). The accused testified he was a farmer or agricultural employee prior to his army service and while at Fukuoka Prisoner of War Camp Number Two, was the mess sergeant. That he saw Prisoner of War Peters being mistreated by a number of guards and camp personnel. That a towel was placed over the mouth of the Prisoner of War and water poured on the towel; then he was tied up. That accused did not force Peters to swallow any water; that the witness did not slap or strike Peters (R. 44). That accused had no authority to stop this punishment because he was not the senior present. Sergeant Major Tajima was present and was the superior of the accused. Prisoner of War Bennett was brought to the accused for infraction of camp regulations. Accused struck Bennett two or three times and used a wooden stick about an inch wide and 30 inches long. The accused threw Bennett to the ground twice, but did not strike him with his fist (R. 45). After this incident, accused had Bennett taken to the camp commandant. Accused on an occasion when he inspected mess gear, found the kits dirty. Accused directed several of the Prisoners of War to wash these kits and made the remainder of the prisoners stand until the washing was completed.

On cross examination accused stated at the time Prisoner of War Peters was beaten, he was sure Sergeant Major Tajima was present (R. 47) and about four or five Japanese personnel. Accused did not recall who beat Peters or caused water to be thrown on him. The accused witnessed the beating of Peters for a short time, (R. 48), about ten to twenty minutes. Bennett was brought to the accused by a soldier (R. 50). The soldier told accused Bennett tried to take water intended for kitchen use only (R. 51). Accused struck Bennett with a stick

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(R. 51) on the buttocks; Accused struck Bennett two or three times. The stick was scrap wood. Bennett was struck lightly. After this Bennett was thrown to the ground twice. Bennett fell easily because accused did not use too much strength. Bennett was thrown on a concrete floor. Accused threw Bennett down because he lost his temper (R. 52, 53). Accused did not recall the beating of Prisoner of War Furrer.

On examination by Court:

Only camp commandant could place a man in confinement or release him from confinement (R. 54).

Masaru Taura, a witness for the defense, was sworn and testified that he served in the Japanese army from 15 August 1942 to 20 September 1945. That the witness served at Fukuoka Prisoner of War Camp Number Two from 29 December 1942 until 20 September 1945. That he did clerical work in the general affairs section of camp (R. 32). The witness identified the accused and that the accused made efforts to directly secure food and water for the Prisoners of War. The only complaint concerning food, that the witness knew of, was during the first year when Prisoners of War could not adjust themselves to a rice diet. Arrangements were made with a bakery company to bake the bread (R. 33). The witness did notice the accused beat a Prisoner of War. Witness knew Capt. Budding, a Prisoner of War, that Capt. Budding stated to witness that the camp was probably the best Prisoner of War camp in Japan (R. 34).

Yosuhiko Kuroiwa, a witness for the defense, was sworn and testified (R. 38) that he was in the Japanese army from January 1942 to August 1945. That he was medical non-commissioned officer at Fukuoka Prisoner of War Camp Number Two from August 1943 until September 1945 (R. 40). Witness knew Iwata, the accused, and that accused was mess non-commissioned officer. The water supply for the camp was inadequate and the water used had to be brought in from Nagasaki. Prisoners of War received same food and same amount of food as given to Japanese. No complaints about food were received by witness. Iwata made the Prisoners of War abide strictly by camp rules. Witness did not see Iwata strike a Prisoner of War, and as far as witness knew, he believed all Prisoners of War liked the accused (R. 39). On cross examination (R. 40), witness testified the camp regulations were frequently changed. Witness knew the accused about two months.

Masakai Murai, a witness for defense, was sworn and testified (R. 40) that he was in Japanese army and was stationed at Fukuoka Prisoner of War Camp Number Two from 15 June 1943 until 27 June 1945. That the natural water (R. 41) had to be transported by trucks daily from the main land. That the supply was not sufficient to permit free use. The accused was the mess non-commissioned officer. The amount of food given to Prisoners of War and Japanese was the same. It differed in the cooking. The accused was trusted by the camp commandant, was diligent in his work. During shortage of food, he did his best to obtain extra food for Prisoners of War. Accused abided closely to rules and regulations of the camp. The witness did not see the accused strike anyone. Witness knew Capt. Budding and received complaints from Budding about administrative work. Capt. Budding did not ask that a prisoner be punished. The accused did not have authority to confine a Prisoner of War in guard house (R. 42). On cross examination it was shown witness had been tried and convicted by the same commission now trying Iwata.

Yoshio Tajima, a witness for the defense, was sworn and testified in substance as follows: That the witness was conscripted into the Japanese army several times. Witness was on duty at Fukuoka Prisoner of War Camp Number Two from 29 December 1942 until 30 July 1944. That he held the rank of Sergeant Major and was in charge of administration. Witness knew the accused, Iwata, and identified him. That accused was a Sergeant and a rank lower than the witness. The witness could not recall the name of Peters, but recalled an incident when supplies of the camp were missing. The camp commandant slapped this prisoner prior to putting him in the guard house. Witness did not see Iwata at time of the beating (R. 61). Accused did not have authority to place any one in the guard house at will (R. 62).

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Examination by Commission.

The accused did not have authority to punish Prisoners of War. The usual punishment given to Prisoners of War convicted of stealing was heavy guard house. Heavy guard house punishment did not include beatings and forcing water down one's throat (R. 64).

4. Errors and Irregularities:

There are no errors or irregularities which injuriously effect any substantial right of the accused. The commission was constituted by proper authority and had jurisdiction of the accused and of the offense. There is no evidence that the accused was not sane at the time of the commission of the alleged act or at the time of the trial. The accused was given a fair trial, was well defended, presented witnesses in his own behalf, testified in his own behalf and was given ample opportunity for cross examination of witnesses testifying against him. No ruling of the commission is deemed to affect adversely the substantial rights of the accused.

5. Opinion:

The record is legally sufficient to sustain the findings of the commission. The evidence to sustain the findings as to Specifications 1, 2, 3 and 5, was obtained from the personal testimony of Capt. Johannes J. Budding, who was a Prisoner of War at the camp during the periods as alleged in the specifications. The motion of defense to join Specifications 2, 3 and 5 was properly denied by the Commission. The motion of the defense for modification of the sentence, to which the prosecution has not replied, has been read and carefully considered. The assignments of error, as set forth on Page 3 of Volume III, are considered to be without merit and warrant no comment other than to say they have been rendered moot by previous decisions approved by the Commanding General, Eighth Army. The sentence imposed by the Commission was well within the limits heretofore approved in cases of a like or similar nature.

6. Recommendations:

It is recommended the findings of the Commission be approved, in view of the length of confinement prior to sentence and in consonance with the present policy, three months of the confinement be remitted.

It is recommended the motion to modify the sentence be denied.

7. Action:

A form of action designed to carry these recommendations into effect is attached.

F. J. GROGAN  
Captain, JAGD  
Assistant Staff  
Judge Advocate

I concur in general.

ALLAN R BROWNE  
Lt Col, JAGD  
Army Judge Advocate