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

P. Walters
Yokohama, Japan
14 October 1948

UNITED STATES OF AMERICA VS TOYOKAZU HIKITA
UNITED STATES OF AMERICA VS KIYOSHI TANABE

Review of the Staff Judge Advocate

1. The attached record of trial of Toyokazu Hikita and Kiyoshi Tanabe at Yokohama, Japan, from 1 March 1948 to 2 March 1948, by a Military Commission appointed by paragraph 1, Special Orders No. 46, Headquarters Eighth Army, United States Army, dated 27 February 1948, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Toyokazu Hikita, Japanese Citizen	DATE OF CONFINEMENT: 1 April 1946
AGE: 26	DATE OF ARRAIGNMENT: 1 March 1948
RESIDENCE: 1062 Mitsura Cho, Hikone City, Shiga Prefecture	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Single	PERIOD OF TRIAL: 1 March 1948 to 2 March 1948
EDUCATION: High school graduate, Vancouver B.C., Canada	DATE OF SENTENCE: 2 March 1948
RELATIVES: Father, mother, 2 younger sisters	SENTENCE: CHL for four (4) years
VOCATION: Radio Operator	CLEMENCY RECOMMENDED BY COMMISSION: No.
MILITARY CAREER: Japanese Army July 1943 to end of war.	

NAME: Kiyoshi Tanabe, Japanese National	DATE OF CONFINEMENT: 16 April 1946
AGE: 31	DATE OF ARRAIGNMENT: 1 March 1948
RESIDENCE: Osaka City, Sumiyoshiku Sumie Naraichiko 5	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 1 March 1948 to 2 March 1948
EDUCATION: Hosei University graduate	DATE OF SENTENCE: 2 March 1948
RELATIVES: Wife, mother, one sister	SENTENCE: CHL for two (2) yrs. six (6) months
VOCATION: Clerk, Agriculture Dept.	CLEMENCY RECOMMENDED BY COMMISSION: No.
MILITARY CAREER: Japanese Army January 1942 to end of war	

2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency and Sentences:

<u>Charges and Specifications:</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
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HIKITA

Charge: Accused, at the 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
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Sp. 1: That in or about April or May 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat Second Lieutenant Andrew J. Litz, an American Prisoner of War, by beating, kicking and otherwise abusing him.	NG	G	No
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- Sp. 2: That on or about 28 July 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat Staff Sergeant Walter W. Dickerson, an American Prisoner of War, by beating and otherwise abusing him. NG G Yes
- Sp. 3: That in or about July 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat Staff Sergeant Thomas W. Pecl, an American Prisoner of War, by beating and otherwise abusing him. NG G Yes
- Sp. 4: That in or about July or August 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat Captain Gordon P. Jordan, an American Prisoner of War, by beating and otherwise abusing him. NG G No
- Sp. 5: That in or about August 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat Sergeant Lester C. Morris, an American Prisoner of War, by beating, kicking, and otherwise abusing him. NG G Yes
- Sp. 6: That in or about August 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat Captain Vincent A. Gaudiani, an American Prisoner of War, by beating and otherwise abusing him. NG NG
- Sp. 7: That in or about August 1945, at the Eastern District Kempei-Tai, Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat First Lieutenant Marvin S. Watkins, an American Prisoner of War, by beating and otherwise abusing him. NG G Yes
- Sp. 8: That at divers times between 1 January 1945 and 15 August 1945, at the Tokyo Kempei-Tai, later called the Eastern District Kempei-Tai, at Tokyo, Honshu, Japan, the accused, Toyokazu Hikita, did willfully and unlawfully mistreat numerous American Prisoners of War, other than as hereinbefore specified, by beating and otherwise abusing them. NG Nolle Prossed ---

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Charge: Accused, at the 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
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Sp. 1: That at divers times between 26 May 1945 and 10 June 1945 at the Eastern District Kempei-Tai, at Tokyo, Honshu, Japan, the accused, Kiyoshi Tanabe, did willfully and unlawfully mistreat one James L. Green, an American Prisoner of War, by beating and kicking the said Prisoner of War, and by otherwise abusing him.	NG	G	No
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Sp. 2: That at divers times between 15 September 1944 to 15 October 1944, at the Tokyo Kempei-Tai, Tokyo, Honshu, Japan, the accused, Kiyoshi Tanabe, did willfully and unlawfully mistreat one Mark S. Kennard, an American Prisoner of War by beating and otherwise abusing him.	NG	G	No
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Sp. 3: That on or about 7 August 1945, at the Eastern District Kempei-Tai, at Tokyo, Honshu, Japan, the accused, Kiyoshi Tanabe, did willfully and unlawfully mistreat one Vincent A. Gaudiani, an American Prisoner of War, by beating him and otherwise abusing him.	NG	G	Yes
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3. Summary of Evidence for the Prosecution

a. In General:

The evidence for the prosecution is composed of 14 Exhibits and the oral testimony of one witness. It is clearly established that the accused were Japanese army enlisted men stationed at Tokyo Kempei Tai during the period 15 September 1944 to August 1945, the dates alleged in the various specifications. Each accused was definitely identified by name and photograph by the testimony of witnesses. All exhibits were admitted in evidence over the general objection of defense counsel to all affidavit testimony on the grounds that it is ex parte, represents conclusions, hearsay, rumors and is of no probative value, with respect to each and every exhibit to be offered (R 3). The President of the Commission replied "All right. Proceed." Thereafter when the various exhibits were offered the President in each case stated in substance "there being no objection by the defense the affidavit is admitted in evidence."

b. As to accused Hikita:

As to Specification 1: The only evidence offered by the prosecution was Exhibit 12, a statement of accused Hikita dated 28 March 1946. This statement was in question and answer form and in answer to the question "Who else was beaten?" the accused answered "Second Lt. Litz. I kicked him myself." It is nowhere else shown that this crime was committed.

As to Specification 2: Exhibit 7, affidavit of S/Sgt Walter W. Dickerson recites that he was a prisoner arriving at Tokyo Kempei Tai on 21 July 1945 and about five days later when he told Hikita that he (witness) did not know how to put a .45 cal. pistol together he was beaten with a bamboo pole by Hikita.

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As to Specification 3: Exhibit 9, affidavit of T/Sgt Thomas W. Peel recites that he was interrogated about four times, mainly by Hikita while in the cell at Kempei Tai Headquarters soon after he was shot down on 26 May 1945; that Hikita got nasty a couple of times and beat the witness with a kendo stick several times.

As to Specification 4: The prosecution offered no competent evidence to substantiate this charge. Capt. Gordon P. Jordan on 4 December 1945 made affidavit in general terms which was introduced in evidence (Ex. 11). It recites that he was subjected to beatings by Japanese guards and interrogators; that he does not recall the names of the Japanese guards who subjected him to beatings; that "however, there were two privates, one of whom had been born in San Francisco and had returned to Japan at the age of 17 in about 1941. He spoke good English and it was evident that he had been educated in the United States." The prosecution offered in evidence Exhibit 12 a statement of accused Hikita made on 28 March 1946 in which it was stated "A Captain Jordan was also beaten. I don't remember who was in the room. I may have slapped this man myself."

As to Specification 5: Exhibit 13, an affidavit of Ambrose Kiyooki Nakao, Japanese National, recites that he taught English at Tokyo until 1 May 1945, when he joined the Japanese army; that at the end of May he was transferred to the Kempei Tai Headquarters in Tokyo where he acted as interpreter at the interrogation of pilots captured by the Japanese; that Sgt. Morris was subjected to mistreatment; that Sgt. Morris was suffering from a bad gash in his ankle at the time and was forced to sit Japanese fashion for about one-half hour; that Cpl. Hikita would ask Sgt. Morris a question and upon receiving an unsatisfactory answer would violently kick Morris in the chest; that the kicking was so violent that he almost lost consciousness; that as a result cold water was thrown in his face in order that the interrogation could proceed (Ex. 13, p 4).

The Defense and Prosecution stipulated that Lester C. Morris was confined in Tokyo Kempei Tai 9 August 1945 to 15 August 1945 (R. 7).

As to Specification 6: Finding Not Guilty

As to Specification 7: Marvin S. Watkins, a witness for the prosecution was sworn and testified that during the war he was a first lieutenant in the Air Corps and was a prisoner of war from 5 May 1945 to 29 August 1945; that at the Kempei Tai Headquarters in Tokyo he was interrogated several times by Hikita; that Hikita was trying to make him admit indiscriminate bombing, and because he wouldn't do so Hikita struck him over the head with a club; that at the time he had lost 30 pounds and was in a run down condition, was sitting in a kneeling position and when struck he went forward and nearly blacked out; there were no cuts -- just a knot on the back of his head. He identified the accused Hikita in the courtroom (R. 9-10).

c. As to accused Tanabe:

As to Specification 1: Exhibit No. 1, an affidavit of James L. Green, formerly a Corporal in the Air Corps, recited that after he was captured by the Japanese, one Kobayashi told him he would be killed if he did not answer his questions truthfully; that he proceeded to tell untruths and was caught. Kiyoshi Tanabe and Giro Endo also took part in the interrogations. He had a court martial served on him and he signed it. It stated that he was to be given the death penalty. He was kicked and beaten by the three Japanese mentioned above during the interrogation.

As to Specification 2: Exhibit No. 3, an affidavit of Mark S. Kennard, formerly a flight officer in the Air Corps, recited generally that he was interrogated about fifteen times concerning indiscriminate bombing of the civilian population; that it was at these interrogations he was slapped, kicked, and beaten with a sheathed sword; that he was questioned by a civilian interrogator, an Army officer in civilian clothes, and a soldier named Kiyoshi Tanabe, who was the chief clerk; that Tanabe's duties were to record the proceedings and he occasionally

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