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

Yokohama, Japan
11 December 1948

UNITED STATES OF AMERICA VS TSUNEE ABE
UNITED STATES OF AMERICA VS SEIJI SAKAI

Review of the Staff Judge Advocate

1. The attached record of trial of Tsunee Abe and Seiji Sakai at Yokohama, Japan tried from 6 July 1948 to 16 July 1948, by a Military Commission appointed by paragraph 3, Special Orders No. 148, Headquarters Eighth Army, dated 30 June 1948, having been referred to the Staff Judge Advocate, this review thereof is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Tsunee Abe	DATE OF CONFINEMENT: 11 May 1948
AGE: 30	DATE OF ARRAIGNMENT: 12 July 1948
RESIDENCE: 4612-1 Yama-Nu-Shita Dori-San-Chome. Niigata-Shi Niigata Prefecture	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 6 July 1948, - 16 July 1948
RELATIVES: Father, Mother, Brother, Sister	DATE OF SENTENCE: 16 July 1948
EDUCATION: Elementary Education, 6 years, Agricultural School, 3 years.	SENTENCE: CHL for 5 years
VOCATION: Farmer	CLEMENCY RECOMMENDED BY COMMISSION: No
MILITARY CAREER: Entered Japanese Army 1 December 1939. Discharged from Regular Army, January 23, 1942.	

NAME: Seiji Sakai (also known as Kiyijo Nose)	DATE OF CONFINEMENT: 11 May 1948
AGE: 31	DATE OF ARRAIGNMENT: 12 July 1948
RESIDENCE: 1168 Banchi, Nuttari-Machi Niigata-shi, Niigata Prefecture	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 6 July 1948 - 16 July 1948
RELATIVES: Father, mother	DATE OF SENTENCE: 16 July 1948
EDUCATION: Elementary School, 6 Years	SENTENCE: CHL for 5 years
VOCATION: Sales Clerk - Slipper Shop	CLEMENCY RECOMMENDED BY COMMISSION: No
MILITARY CAREER: Entered Regular Army Dec 10, 1938; Served in China, April 1939 to Aug 1939 when hospitalized until Aug 1940. Discharged from the Army because of pleurisy mid August 1940.	

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

<u>Charge and Specifications:</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
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ABE:

Charge: Accused at the time and places set forth in the specifications hereto attached did violate the Laws and Customs of War.	NG	G	Yes
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Sp 1: (As amended - R. 19, 20). That on numerous occasions between 1 March 1944 and 1 August 1944 at or near Tokyo Area Prisoner of War Camp No. 5-B, Niigata, Honshu, Japan, the accused Tsunee Abe did willfully and unlawfully mistreat Private Charles Joseph Johnson, an American Prisoner of War, by beating him, by forcing him to perform arduous labor while ill, diseased and physically unfit to perform such labor, and by otherwise abusing him.	NG	Guilty except the words, "by forcing him to perform arduous labor while ill, diseased and physically unfit to perform such labor". Of the excepted words, Not Guilty.	Yes
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Sp 2: (As amended; R. 27, 28, 85, 87). That on divers occasions between 3 September 1944, and 6 September 1945 at or near Tokyo Area Prisoner of War Camp No. 5-B, Niigata, Honshu, Japan, the accused Tsunee Abe, did willfully and unlawfully mistreat Robert I. Tate, Donald Crago, Fred Gifford, Lesley Little, Robert R. Wolfe, American Prisoners of War, and numerous other American and Allied Prisoners of War by beating them and by otherwise abusing them.	NG	G	Yes
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SEIJI SAKAI:

Charge: Accused also known as Kiyijo Nose 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: (As amended, R. 29). That on numerous occasions between 10 October 1944, and 10 March 1945, at or near Tokyo Area Prisoner of War Camp No. 5-B, Niigata, Honshu, Japan, the accused, Seiji Sakai, also known as Kiyijo Nose, did willfully and unlawfully mistreat Private Charles Joseph Johnson, an American Prisoner of War, by beating him, by forcing him to perform arduous labor while ill, diseased and physically unfit to perform such labor, and by otherwise abusing him.	NG	Guilty except for the words, "by forcing him to perform arduous labor while ill, diseased and physically unfit to perform such labor." Of the excepted words, Not guilty.	Yes
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Sp. 2: (As amended, R. 27, 85, NG G Yes
87). That on divers occasions
between 10 October 1944 and
6 September 1945, at or near
Tokyo Area Prisoner of War Camp
No. 5-B, Niigata, Honshu, Japan,
the accused, Seiji Sakai, also known
as Kiyijo Nabe, did willfully and
unlawfully mistreat Anthony Chezek,
Donald M. Crago, Robert I. Tate,
C. H. Keaton, Fred Kernick, N.C. Smith,
Clara Nielson, Raymond Pelkey,
R. R. Wolfe, American Prisoners of
War, and numerous other American and
Allied Prisoners of War by beating
them and by otherwise abusing them.

3. Summary of the Evidence:

a. For the Prosecution:

In General: The two accused were civilian guards at the named POW Camp, it containing over 600 PW's, American, English and Canadian. About 175 PW's worked at a nearby Rinko Coal Yard, in loading and unloading coal and other supplies to and from ships, barges, railroad and trestle coal cars. Most of the incidents herein alleged occurred at the coal yard.

As to Specification 1 (Tsuneo Abe): Live witnesses, PW Sgt. Wolfe and PW Sgt. Smith identified the accused, (R. 9, 24, 51). PW Johnson was beaten many times by the accused with fists and clubs at the coal yard and camp, 1944-45 (R. 16, 17, 18, 23, 25, 26, 54, 55, 62, 67, 188, 189; Ex. 1). The main reasons for these were that because of his constant ill health, Johnson could not keep up with the work schedule in hauling and loading coal. He was about 19 years old, sickly, and became somewhat of a mental case, it being said he often traded off his rations and clothing, (R. 23). During the winter of 1944-45, Johnson was beaten by the accused while engaged with witness Smith in pushing a cart thru the snow (R. 54). Another time he was beaten for having picked up some loose fruit at the dock, he being hit about 10 times with a club, (R. 56). Johnson was beaten by most everybody in the camp, including the accused, (R. 79, 188, 189, 193; Ex. 1).

As to Specification 2 (Tsuneo Abe): The accused was stationed at the Rinko Coal Yard (R. 162), afterwards transferring to duty inside the POW Camp proper. Because of a beating he inflicted upon PW Little at the coal trestle in August 1944, the accused was transferred to work in the POW camp kitchen, complaint of the beating having been made by PW Warrant Officer Lee, (R. 11, 12, 13, 43, 47, 77, 185). PW Little had fallen off a plank walk while carrying a load of coal, he having an injured back at that time. This incident was merely one of a series of constant beatings by the accused of many PW's. He was savage and cruel with most men on the job (R. 189).

Live witness Wolfe testified he was beaten by the accused in May 1944, with a stick, being hit on the neck and back while he was waiting to go into a latrine; the accused drove him back to work, (R. 20, 48). PW Gifford was limping along in a marching column, straggling because of a smashed toe, and was severely beaten by the accused with a stick in order to make him hurry, (R. 48). Witness Wolfe also testified as to many beatings by the accused on various PW's (R. 16), including PW Tate.

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Live witness Smith saw the accused beat many PW's including, PW Crago (R. 52), and himself was slapped and beaten on numerous occasions by the accused (R. 57). PW Warrant Officer Lee, the PW work detail commander, made many complaints to POW camp authorities about the various beatings administered by the accused (R. 52). Affiant P' Nelson alleged many beatings by the accused, (Ex. 1).

Witnesses Smith and Wolfe were recalled in rebuttal to personally identify the accused again, and distinguish him in appearance and name from one "Ebi", another Japanese nick-named "Paddle-foot", he being a guard at the same camp, and the accused in another case, (R. 176, 178).

As to Specification 1 (Sakai): The accused was identified by both live witnesses, Smith and Wolfe, (R. 24, 31, 51), the accused bearing the nickname of "The Nigger"; his work consisted of being a guard and foreman at the coal yard, and escorting the PW's to and from the POW camp, (R. 60).

The accused struck PW Johnson with a stick in July 1944, (when accused was first supposed to come to the camp), because of Johnson's refusal to work on the trestle, he claiming illness (R. 25); he was also often beaten during the fall and winter of 1944-45 (R. 60). PW Johnson complained many times that "The Nigger" (the accused) had beaten him often (R. 25). Witness Smith said that PW Johnson was mistreated so many times by the accused that he didn't bother to count them, (R. 59). At the dock, on one occasion, the accused struck PW Johnson on the back and head with a stick because of his hesitation in jumping on a barge, thus causing Johnson to fall into the water, he being rescued by other PW's. The accused then compelled Johnson to stand in the bow of the barge for several hours in his wet clothing in cold winter weather, and as a result Johnson became very ill, (R. 63, 75).

PW Johnson was constantly mistreated by the accused, as well as being beaten by all the guards, according to the testimony of PW Warrant Officer Lee, (R. 189). Affiant Coghlan says the accused often beat PW Johnson with clubs and fists, and that he was beaten up more than anyone at the camp (Ex. 2). Affiant Nielson affirmed that PW Johnson was beaten by the accused (Ex. 1).

As to Specification 2 (Sakai): The accused beat and struck many PW's (R. 26, 64, 190, 191). Live witness Wolfe related numerous beatings of himself with fists and clubs by the accused, (R. 30). Live witness Smith told of mistreatment by the accused when he was trying to warm himself at a small stove in the trestle elevator (R. 60, 75). Another time, when witness while ill, was carrying coal, he fell off a plank walk, and the accused hit him several times with a club (R. 61). Witness Smith saw many other beatings by the accused on various PW's, they occurred every day (R. 64). The accused mistreated Smith too many times to count; at least about 1,000 times, (R. 61). Smith also stated the accused beat him and other PW's early in 1944, while the PW's were working in a paper storage warehouse, (R. 226).

The accused beat PW Kernack (R. 58, 59). He beat PW Keaton for smoking at work in November 1944, (R. 61). PW Chezek was struck by the accused in October 1944, for being hurt in an accident on the trestle whereby the PW had badly injured his leg, catching it between two coal cars (R. 62). PW Pelkey had one arm injured at Bataan. He was often beaten by the accused as his impediment made him work slower than the others. He was beaten so often that other PW's traded off rations to get away from his detail, (R. 63, 64). PW Cassaes was hit many times in