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Trial of —

Sgt Soma Takeshuro,

Sgt May Tehihashi Shigeo

Sgt Sasakura Ranji. — accused of the murder of R.A.A.F personnel

F/O, K, Packham,

W/O. — Benson.

Sgt, R.L.F. Jones. — at Kakaskasen, Northern Celebes, in March 1945.

KRT/CJ

Morotai Force
AQ 041.111-2(G)
9 Feb 46

Subject : Trial of Sgt SOMA, Takesburo, Sgt Major ICHIHASHI, Shigeo, and Sgt SASAKURA, Rinji, all of Kempei Tai.

Comd
Morotai Force

1. I have considered the proceedings of the Military Court convened on 28 Jan 46 for the trial of the abovenamed. The Court sat at MOROTAI on 31 Jan 46 and 1 Feb 46.

2. The Court was properly convened, and was composed of officers who were qualified for appointment to the Court in accordance with the provisions of Sec. 5 of the War Crimes Act, 1945, and Reg. 8 of the regulations made thereunder.

3. The Court had jurisdiction to try the accused on the charge set out in the Schedule to the Convening Order. The charge was -

> "Committing a war crime that is to say murder
> "of prisoners of war in that they at KAKASKASEN
> "Northern Celebes on or about 5 Mar 45 murdered
> "F/O K.PACKHAM W.O. BENSON and Sgt R.L.F.JONES
> "all members of the RAAF and then prisoners of
> "war held by the Japanese Armed Forces."

4. The Court had jurisdiction to try the accused persons upon the charge.

5. Each of the accused pleaded 'not guilty' to the charge.

6. With respect to SOMA and ICHIHASHI, the evidence for the prosecution established that each of those accused, acting under the orders of a superior officer, executed a member of the RAAF, then a prisoner of war. The accused admitted these facts in their evidence. The evidence with regard to SASAKURA is on a different plane. In the evidence for the prosecution a statement by the accused SOMA was tendered - Exhibit "D". At page 3 of that statement SOMA stated clearly that SASAKURA had killed one of the prisoners. Pte ONDA, giving evidence for the prosecution, stated (page 6 of the Record) : "Someone said the "first one was killed by Sgt Major ICHIHASHI, the second one "Cpl SASAKURA, the third one Cpl SOMA." " Q. When the statement "was made that ICHIHASHI and SASAKURA killed the other two, do "you know of your own mind that those two accused were present "and heard it ? A. It was dark and I don't remember." Later on ONDA stated " I don't remember the man; I just heard a bit of a rumour. I heard someone say it." Normally neither of these pieces of evidence would be admissible against SASAKURA. They are, however, admitted by virtue of the evidentiary provisions of "The War Crimes Act" and their weight was a matter for the Court. I must assume, of course, that the Court considered whether Exhibit "D" was or was not to be treated in the same manner as the evidence of an accomplice and the weight to be attributed to it. SASAKURA denied on oath that he had executed anyone. SOMA , in cross-examination , said , in effect, that exhibit "D" wrongly expressed what he had said about SASAKURA AND THAT his statement that SASAKURA had killed one of the

prisoners was an assumption based on the fact that SASAKURA had borrowed his sword. By cross-examination of SASAKURA evidence was elicited which was directed to establish that he was a principal in the second degree, i.e. that he was present at the commission of the offence and was prepared to assist in its execution. In view of the fact that his presence in the first place was not voluntary but in response to the order of a superior officer, that his continued presence was a result of that order and that his expressed willingness to participate , if called upon, was really a statement that he was there and would have to do whatever he was ordered to do, I find it difficult to say that it was established that he, by virtue of that portion of cross-examination, was a principal in the second degree. In my opinion, there was some evidence, though slight, of his guilt. It is also my opinion, upon the whole of the evidence regarding his participation, that confirmation of the finding in his case might work an injustice. As, however, all accused have petitioned against finding and sentence, the proceedings have to be referred to the Judge Advocate-General prior to confirmation .

7. The Court found all the accused guilty. Subject to what I have said above regarding SASAKURA, there was evidence to support the finding.

8. The Court sentenced the accused SOMA and ICHIHASHI to imprisonment for six years and SASAKURA to imprisonment for three years. These are lawful sentences.

9. In my opinion, the findings and sentences in the case of SOMA and ICHIHASHI may properly be confirmed.

10. The accused have lodged petitions against finding and sentence. Pursuant to the provisions of reg. 17 of the regulations made pursuant to the War Crimes Act, 1945, it is necessary, where the petition is against the finding, for the proceedings to be referred to the Judge Advocate-General before confirmation.

11. As the power of commuting a sentence has been delegated only to the Commander-in-Chief, it is necessary for the confirmation to be reserved for his consideration in view of the petition against the severity of the sentence. The proper course for you to follow, therefore, is to endorse the proceedings "Reserved for confirmation by superior authority ."

12. So fare as the petitions of SOMA and ICHIHASHI relate to sentence they are based upon the ground that the sentences are excessive in view of the fact that they acted in obedience to the orders of a superior officer. SASAKURA's petition against sentence is based on the fact that he took no active part but was merely present.

Major
DADLS Morotai Force

KRT/CJ

Morotai Force
AQ 041.111-2(G)
15 Feb 46

Subject : Trial of Sgt SOMA, Takesburo, Sgt Major ICHIHASHI, Shigeo, and Sgt SASAKURA, Rinji, all of Kempei Tai

HQ AMF (For DPW & I)

1. Forwarded herewith are proceedings of above trial together with petition by all Accused against finding and sentence and Legal Officer's report.

2. It is recommended that the petition, so far as it relates to sentence, be dismissed.

Brigadier
Adm Comd Morotai Force

KRT/CJ

Morotai Force
AQ 041.111-2(G)
15 Feb 46

Subject : Trial of Sgt SOMA, Takesburo, Sgt Major ICHIHASHI, Shigeo, and Sgt SASAKURA, Rinji, all of Kempei Tai

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Brigadier
Adm Comd Morotai Force

Legal

DPW(AG13(2a))/NA

DESPATCH
25 MAR 1946

27038 22 Mar 46

HQ,
MOROTAI FORCE

TRIAL BY MILITARY COURT. - SGT SOMA, Takesaburo
S/MAJ ICHIHASHI, Shigeo
SGT SASAKURA, Rinji

1. Ref your AQ041-111-2(G) of 15 Feb 46 forwarding the above proceedings.

2. It is advised that the proceedings and petition of the accused, who were convicted of the charge

MURDER

in that they at KAKASKASEN, Northern Celebes on or about 5th March 45 murdered F/O K. PACKHAM, W/O D. BENSON and SGT R.L.F. JONES all members of the RAAF and then prisoners of war held by the Japanese Armed Forces,

have been considered. The Confirming Authority has

(a) Confirmed the finding of guilty.

(b) Confirmed the sentences in the case of

SGT SOMA T.	TO BE IMPRISONED FOR	6	YEARS
S/MAJ ICHIHASHI S.	" " "	"	6	"
SGT SASAKURA R.	" " "	"	3	"

3. It is requested that the findings and sentences as confirmed be promulgated to the accused. Promulgation should be effected by an officer. A certificate of promulgation in the form attached will be forwarded to this HQ for attachment to the proceedings.

Major-General,
Adjutant-General.

ADM/HM.

Morotai Force
AQ 041.111-2(G)
2 Apr 46

Subject : TRIAL BY MILITARY COURT - SOMA, Takesaburo
ICHIHASHI, Shigeo
SASAKURA, Rinji

HQ AMF (For DPW & I)

1. Ref your 27038 of 22 Mar 46 advising of confirmation of the findings of guilty and confirmation of the sentences on this trial.

2. It is advised that promulgation of the findings, and sentences as confirmed was effected on 1 Apr 46, and herewith completed certificate of promulgation.

Col.
Adm Comd Morotai Force.

CERTIFICATE OF PROMULGATION

Promulgated in the case of ..... this ..... day of ..... 1946.

(Sgd) .....
Name, Rank and Unit of Officer effecting promulgation.

Promulgated in the case of ..... this ..... day of ..... 1946.

(Sgd) .....
Name, Rank and Unit of Officer effecting promulgation

Promulgated in the case of ..... this ..... day of ..... 1946.

(Sgd) .....
Name, Rank and Unit of Officer effecting promulgation

Promulgated in the case of ..... this ..... day of ..... 1946.

(Sgd) .....
Name, Rank and Unit of Officer effecting promulgation

Promulgated in the case of ..... this ..... day of ..... 1946.

(Sgd) .....
Name, Rank and Unit of Officer effecting promulgation

When several cases are promulgated on the same day the officer effecting promulgation need sign only once.

PETITION

The Confirming Authority

Pursuant to regulation 17 of the Regulations under the War Crimes Act 1945 for the trial of War Criminals, I, Sgt, SASAKURA RINJI of the Celebes KEMPI TAI submit a petition against my conviction and sentence on 2 Feb 46 by a Court convened at MOROTAI by authority of a convening order issued pursuant to the provisions of the War Crimes Act 1945 on the following grounds, that is to say :-

1. The donviction is contrary to the evidence and the weighh of the evidence.

The evidence for the prosecution was based on the hearsay evidence of the witness ONDA that he had heard that I did one of the executions. The evidence I gave at the trial was true and in my evidence I denied that I had taken part in the execution and was only present at the scene of the execution because of the orders of my superior officer.

2. The finding is contrary to law.

Although present at the scene of the execution, I did nothing to assist in the execution. My presence there was due to that fact that I had been ordered to execute one of the prisoners, but because of my distaste to carry out such an act, I arrived late and was relieved of that duty.

I took no part in the execution and I consider my mere presence at the scene of the execution was not sufficient to make me a principal in the first or second degree.

3. There is no evidence to support the conviction.

4. The sentence is excessive.

As I had been ordered to execute a prisoner, I did my best to avoid it by arriving late at the scene of the execution. My presence there was due solely to the orders I had received from MATSUMOTO and Had I not received these orders I would not have been present.

I had been trained to obey orders without question and it was due to my obedience to an order that I find myself now convicted of the crime of murder.

I consider that the sentence of 3 years imprisonment is far too excessive for what I did.

DATED AT MOROTAI this 5th day of February 1946.

笹倉林治

...R. Sasakura

(Sgt SASAKURA RINJI)

Recd 6/2

KPIT

PETITION

The Confirming Authority

Pursuant to regulation 17 of the Regulations under the War Crimes Act 1945 for the trial of War Criminals, I, Sgt SOMA TAKESBURO of the KEMPI TAI submit a petition against my conviction and sentence on 1 Feb 46 by a Court convened at MOROTAI by authority of a convening order issued pursuant to the provisions of the War Crimes Act 1945 on the following grounds, that is to say : -

1. The conviction is contrary to the evidence and the weight of evidence.

The evidence adduced showed that I had arrived at the HQ of the KEMPI TAI at KAKASKASEN on the evening of the execution. Prior to this I had been at LANGOWEN and knew nothing whatsoever of the prisoners held by the KEMPI TAI at KAKASKASEN.

When I arrived at KAKASKASEN I had no opportunity to enquire as to the legality or otherwise of the order for the execution.

I did not know whether the prisoner I had been ordered to execute had been tried by Court Martial or had been guilty of an offence. As far as I knew the execution was legal as I had been told that the repsonsibility for the execution was not mine but that of my superior officers.

2. The conviction is contrary to law.

The evidence showed that I was acting under orders and had neither the willingness nor desire nor the malice necessary to constitute my offence as that of murder.

3. The sentence is excessive.

I was acting under orders from WO MATSUMOTO who was the Chief Administrative Officer of the KEMPI TAI. If I had not obeyed the order to carry out the execution, I would have been punished by, either life imprisonment or death. I had no option but to obey the order as strict obedience of orders is always impressed on every soldier, and I respectfully submit that the sentence of six years imprisonment is excessive.

DATED AT MOROTAI this 5th day of February 1946.

相馬竹三郎

T. Soma

(Sgt SOMA TAKESBURO)

Recd 6/2

ZBB

PETITION

The Confirming Authority

Pursuant to regulation 17 of the Regulations under the War Crimes Act 1945 for the trial of War Criminals, I, St. Lt Sergeant ~~Major~~ ICHIHASHI of the Celebes KEMPI TAI submit a petition against my conviction and sentence on 2 Feb 46 by a Court convened at MOROTAI by authority of a convening order issued pursuant to the provisions of the War Crimes Act 1945 on the following grounds, that is to say :-

1. The conviction is contrary to the evidence and the weight of the evidence.

The evidence disclosed that I carried out the execution of an Australian Airman who was a prisoner of war held by the Japanese armed forces. I do not deny this but it was done by me solely on the orders of my superior officers.

2. The conviction is contrary to law.

At no time did I have the necessary intent to commit a crime to constitute an offence to that of murder.

The act which I was ordered to do, I did unwillingly and without the exercise of freewill on my part. I was ordered to do the execution and I knew that if I disobeyed, I would be punished either with death or with life imprisonment. If I disobeyed the order, MATSUMOTO had power to execute me on the spot without recourse of trial by Court Martial.

3. The sentence is excessive.

I acted solely under the orders of my superior officer and unquestioning obedience of orders is inculcated into each Japanese soldier from the day he joins the army.

MATSUMOTO told me that the responsibility was not mine but that of my superior officers and ~~that~~ I believed if any responsibility existed for the execution, that responsibility would not be mine.

I consider that the sentence of 6 years imprisonment is too severe.

DATED AT MOROTAI this 5th day of February 1946.

市橋重雄
S. Ichihasi
.....
(Sgt Major ICHIHASHI)

Recd. 6/2
KBB

TO,

The Confirming Authority

I, Sgt Major ICHIHASHI SHIGEO of North Celbes Kempi Tai hereby give notice of my intention to petition against the finding and sentence of a War Crimes Court convened under the War Crimes Act 1945 and held at MOROTAI on 1 Feb 46, which finding and sentence were delivered to me on 1 Feb 46.

DATED at MOROTAI this 2nd day of February 1946.

市橋重雄

S. Ichihashi

(Sgt Major)

Rec'd 1400 2 Feb

TO,

The Confirming Authority

I, Sgt SASAKURA RINJI of North Celebes Kempi Tai hereby give notice of my intention to petition against the finding and sentence of a War Crimes Court convened under the War Crimes Act 1945 and held at MOROTAI on 1 Feb 46 which finding and sentence were delivered to me on 1 Feb 46.

DATED at MOROTAI this 2nd day of February 1946.

笹倉林治
R. Sasakura
(Sgt)

Received 1100 hrs 2 Feb 46.
[illegible]
2/2/46

TO,

The Confirming Authority.

I, Sgt SOMA TAKESABURO of North Celebes Kempi Tai hereby give notice of my intention to petition against the finding and sentence of a War Crimes Court convened under the War Crimes Act 1945 and held at MOROTAI on 1 Feb 46, which finding and sentence was delivered to me on 1 Feb 46.

DATED at MOROTAI this 2nd day of February 1946.

相馬竹三郎

T. Soma

.....

(sgt)

Rec'd 1100 2 Feb 46

Sgt SOMA, TAKESABURO)
)
Sgt Major ICHIHASHI, SHIGEO)
)
Sgt SASAKURA, RINJI)

Committing a war crime that is to say murder of prisoners of war ~~that~~ that they at KAKASKASEN Northern Celebes on or about 5 Mar 45 murdered F/O K. PACKHAM , S/Sgt D.BENSON and Sgt R.L.F. JONES all members of the RAAF and then prisoners of war held by the Japanese Armed Forces .