

A CHRONOLOGY OF THE CASE OF:

Private First Class Gerald B. Philpott, ASN 14039254, 336th Military Police Escort Guard Company

	Date	No. of days	Explanation
1. Offense committed:	4/11/43		
2. Accused confined:			
By civil authorities			
By military authority			
By military authority ordering trial	4/11/43		
Reconfined from escape			
3. Charges preferred: (Date of Jurat)	4/14/43	3	
~~4. Charges investigated:~~ (Date of Report)			
5. Charges forwarded by C. O.:	4/22/43	8	Charges returned for corrective action. Delay in mails. This corrective action was instituted prior to receipt of charges by Judge Advocate.
6. Charges received, J. A.:	4/22/43	0	
Charges investigated	4/24/43	2	
7. Charges returned:			
8. Charges received back:			
9. Charges—action Staff J. A.:	4/26/43	2	
10. Charges referred for trial:	4/26/43	0	
11. Trial had:	4/28/43	2	
Total days to trial		17	
Less time in hospital			
Less delay at request of defense			
Net total		17	
12. Record of trial received:	4/30/43	2	
13. Review by Staff J. A.:	4/30/43	0	
14. Action by reviewing authority:			
Total to Action by Reviewing Authority			
15. Mimeo. orders received:	5-4-43		
16. Record of trial mailed to J. A. G. O.:	5-4-43		
Total			

Remarks:

John W. Cramer

JOHN W. CRAMER
Lt. Col., J. A. G. D.

Acting Service Command Judge Advocate.

All delays must be fully explained.
In computing number of days between two dates, disregard the first day and count the last day. All months will not be assumed to consist of 30 days.

SPJGJ CM 234874

JBS 79370

To: The Adjutant General. Attention: Enlisted Branch, Military
Information Section, Room 2205, Munitions Building, Washington 25, D.C.

The court-martial action published in General Court-Martial Orders
No. 471, Ninth Service Command, ASF, Fort Douglas, Utah, dated 30 April
1943, concerning the acquittal of Private First Class Gerald B. Philpott,
ASN 14039254, 336th Military Police Escort Guard Company, of a specifica-
tion charging manslaughter under Article of War 93, as a public record,
may be used officially in any manner in the public interest in connection
with any proper inquiry concerning the subject matter of the specification.
The record of trial discloses that the accused, Private First Class Gerald
B. Philpott, was a regularly posted sentry in the lawful pursuit of his
duties, and that the shooting was done in the performance of his duties
to prevent an unlawful escape.

For The Judge Advocate General:

R. M. Kunkel,
Colonel, J.A.G.D.,
Chief, Military Justice Division.

✓ 2 Incls. MAR 20 '44 PM
n/c

231.
Smith, J.B.-rm

GENERAL COURT-MARTIAL DATA SHEET

PHILPOTT GERALD B. 14039254 PFC 336th MPEG Co. 234874
(Last name) (First name) (Middle initial) (Army serial No.) (Grade) (Company, regiment, or arm of service)
 J. A. G. O., C. M. No.

	TRIAL J. A.		STAFF J. A.		J. A. G. O.	
	Yes	No	Yes	No	Yes	No
1. Was court ordered by proper authority?	✓		✓		✓	
2. Are all orders showing membership of court properly entered in record?	✓		✓		✓	
3. Were there less than five members detailed or present at any meeting?		✓		✓		✓
4. Was the law member of the court designated by convening order?	✓		✓		✓	
5. If the presence of the law member was specifically required by the convening authority, was he present at each session?	—		—		—	
6. Did the court have jurisdiction of person and offense?	✓		✓		✓	
7. Does the record show place, date, and hour court convened?	✓		✓		✓	
8. Are all members of the court, trial judge advocate, assistant trial judge advocate, defense counsel, and assistant defense counsel accounted for as present or absent?	✓		✓		✓	
9. Was accused asked whom he desired as counsel?	✓		✓		✓	
10. Was reporter sworn?	✓		✓		✓	
11. Was interpreter sworn?	—		—		—	
12. Was accused extended right of challenge as to each member of the court, and was he instructed as to his right to exercise one peremptory challenge against any member except the law member?	✓		✓		✓	
13. Was action of court upon challenges regular and properly taken?	✓		✓		—	
14. Was the court sworn?	✓		✓		✓	
15. Was any officer sitting as a member of the court the accuser, a witness for the prosecution, or, upon a rehearing, one who sat as a member on the former trial?		✓		✓		✓
16. Was the personnel for the prosecution sworn?	✓		✓		✓	
17. Was the accused properly arraigned?	✓		✓		✓	
18. If pleas of guilty were explained was accused's response, if any, recorded?	—		—		—	
19. Does each specification state an offense under the Articles of War?	✓		✓		✓	
20. Are there copied into the record—						
(a) Charges and specifications?	✓		✓		✓	
(b) Name, grade, and organization of the person signing charges?	✓		✓		✓	
(c) Affidavit to the charges and specifications?	✓		✓		✓	
(d) Name of the person who administered the oath verifying the charges, and his official capacity?	✓		✓		✓	
(e) The order of reference for trial?	✓		✓		✓	
21. If the accused was advised of his right to plead the statute of limitations, was his response, if any, recorded?	—		—		—	
22. Are pleas of accused regularly entered?	✓		✓		✓	
23. Were the witnesses sworn?	✓		✓		✓	
24. Are the findings properly entered?	✓		✓		✓	
25. Was the vote upon each finding by secret written ballot?	✓		✓		✓	
26. Was sentence reached by secret written ballot?	✓		—		—	
27. Did at least two-thirds of members present at the time the vote on each finding was taken concur therein?	✓		✓		✓	

234874

	TRIAL J. A.		STAFF J. A.		J. A. G. O.	
	Yes	No	Yes	No	Yes	No
28. In each case of finding of guilty where death sentence was mandatory, did all members present concur in each finding?	—	—	—	—	—	—
29. Did members present concur in sentence, as follows: To death, all members; to life imprisonment or confinement for over ten years, at least three-fourths of members; to any other punishment, at least two-thirds?	—	—	—	—	—	—
30. Does the evidence sustain the findings of the court?	✓	—	✓	—	✓	—
31. Are the findings legal?	✓	—	✓	—	✓	—
32. Is the sentence legal?	✓	—	—	—	—	—
33. Does any ruling of the court on the admission of evidence or other matters injuriously affect the substantial rights of accused?	—	—	—	✓	—	✓
34. Did all members who participated in proceedings in revision vote on original findings and sentence?	—	—	—	—	—	—
35. At proceedings in revision are the trial judge advocate, assistant trial judge advocate, defense counsel, assistant defense counsel, the accused, and the individual counsel, if any, accounted for as present or absent?	—	—	—	—	—	—
36. Is the record properly authenticated?	✓	—	✓	—	✓	—
37. Is action of reviewing authority properly entered in record and signed?	—	—	—	—	—	—
38. In case of adjournment or continuance, are each day's proceedings properly signed by trial judge advocate?	—	—	—	—	—	—
39. After each adjournment during trial, is presence or absence of members of court, trial judge advocate, assistant trial judge advocate, defense counsel, assistant defense counsel, accused, his individual counsel, and the reporter properly accounted for?	✓	—	✓	—	—	—
40. Is the action of the reviewing authority legal and properly taken?	—	—	—	—	—	—
41. Is clemency recommended?	—	—	—	—	—	—

Comm. E. Jones
Major J.A.G.D. Trial Judge Advocate.

April 30, 1943
 (Date)

John H. Cope
 Acting Staff Judge Advocate.

4/30/43
 (Date)

Frank P. Eresch
 Officer Reviewing Record.

May 8, 1943
 (Date)

Frank P. Eresch
 Major, J.A.G.D.

Lee H. Cope
 Chief Examiner.

5-8-43
 (Date)

NOTE.—Questions 13, 17, 18, 19, 21, 30, 33, 37, and 40 not to be answered by the trial judge advocate. Question 40 not to be answered by the staff judge advocate.

U. S. GOVERNMENT PRINTING OFFICE 16-12943

I concur with the review of the Staff Judge Advocate

Frank P. Eresch
 Major, J.A.G.D.

Lee H. Cope

LEE H. COPE
 MAJOR, J.A.G.D.

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G.C.M.O. #471

HEADQUARTERS NINTH SERVICE COMMAND

General Court-Martial)

Fort Douglas, Utah

Orders No. 471)

April 30, 1943

Before a general court-martial which convened at Fort Douglas, Utah, pursuant to paragraph 28, Special Orders No. 115, April 26, 1943, this headquarters, was arraigned and tried:

Private First Class Gerald B. Philpott, ASN 14039254, 336th Military Police Escort Guard Company.

CHARGE: Violation of the 93rd Article of War.

Specification: In that Private First Class Gerald B. Philpott, 336th Military Police Escort Guard Company did, at Central Utah Relocation Center Delta, Utah, on or about April 11, 1943, willfully, feloniously, and unlawfully kill James H. Wakasa, an Evacuee, resident of War Relocation Authority Center, Delta, Utah, by shooting him in the chest with an M-1903 .30 caliber rifle.

PLEAS: To the specification and the Charge: NOT GUILTY.

FINDINGS: Of the specification and the Charge: NOT GUILTY,

The court therefore acquitted the accused.

The acquittal was announced on April 28, 1943.

By command of Major General JOYCE:



OFFICIAL:

CHAS. C. QUIGLEY
Colonel, Adjutant General's Department
Adjutant General

P. R. DAVISON
Colonel, General Staff Corps
Chief of Staff

DISTRIBUTION: Par. 3d (1) AR 310-50.

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HEADQUARTERS NINTH SERVICE COMMAND
OFFICE OF THE SERVICE COMMAND JUDGE ADVOCATE VDL/js
FORT DOUGLAS, UTAH

April 30, 1943

UNITED STATES
v.

REVIEW OF STAFF JUDGE ADVOCATE

ON

Private First Class Gerald B. Philpott,
ASN 14039254, 336th Military Police
Escort Guard Company

RECORD OF TRIAL BY GENERAL COURT-MARTIAL

-----0-----

1. The above named accused, who is 21 years and 6 months of age and whose total service is 2 years and 2 months, was tried upon the charges and pleas indicated below at Fort Douglas, Utah on April 28, 1943.

The court, having arrived at the findings hereinafter set forth ~~AND MAKING CON-
SIDERATION OF THE EVIDENCE AND THE LAW, THE COURT HAS~~ acquitted him.

The maximum sentence which might have been imposed is

CHARGE : Violation of the 93rd Article of War.
Specification : Manslaughter.

PLEAS: To the specification and the Charge: NOT GUILTY

FINDINGS: Of the specification and the Charge: NOT GUILTY

2. The record of trial amply supports the findings of the court.

3. The court was legally constituted and had jurisdiction of the person of the accused and of the offense charged. Its acquittal of the accused is conclusive.

Victor D. Lawrence

VICTOR D. LAWRENCE
2nd Lt., J. A. G. D.
Assistant Service Command Judge Advocate

I CONCUR:

John W. Cramer
JOHN W. CRAMER
Lt. Col., J. A. G. D.
Acting Service Command Judge Advocate

(WRITE NOTHING ABOVE THIS LINE)

CHARGE SHEET

HEADQUARTERS

336th MILITARY POLICE ESCORT GUARD COMPANY

DELTA, UTAH

April 14, 1943

(Place)

(Date)

Name, etc., of accused Philpott, Gerald B., ASN 14039254, Private First Class, 336th

(Give last name, first name, and middle initial in that order followed by serial number, grade, company, regiment, arm

Military Police Escort Guard Company, Central Utah Relocation Center, Delta,

or service, or by other appropriate description of accused. Alias names, etc., to follow in same manner)

Utah.

Age 21 6/12

Pay, \$ 54.00 (RA) per month.

Class "E"

Allotments to dependents, \$ 30.00 per month.

Class "N"

(Base pay plus pay for length of service)

Government Insurance deduction, \$ 3.25 per month.

Data as to service: NO PRIOR SERVICE - CURRENT ENLISTMENT - February 8, 1941, for

(As to each terminated enlistment, give including dates of service and organization in which serving at termination. As to

three (3) years, at Fort Bragg, North Carolina.

current enlistment, give the initial date and the term thereof. Give similar data as to service not under an enlistment)

Data as to witnesses, etc.:

WITNESSES

M.C.

(Give names, addresses, and note if for accused. List documentary evidence and note where each item thereof

1st Lt. Walter A. D'Alonzo, 336th Military Police Escort Guard Company, Delta, Utah.

may be found)

C.M.P.

2nd Lt. Harlin C. Carson, 336th Military Police Escort Guard Company, Delta, Utah.

Sgt Floyd C. Johnson, 336th Military Police Escort Guard Company, Delta, Utah.

Cpl Homer D. Etheredge, 336th Military Police Escort Guard Company, Delta, Utah.

Cpl Victor M. Groves, 336th Military Police Escort Guard Company, Delta, Utah.

Pfc Henry A. Roberson, 336th Military Police Escort Guard Company, Delta, Utah.

Pvt Frank R. Baughman, 336th Military Police Escort Guard Company, Delta, Utah.

Pvt James C. Jones, 336th Military Police Escort Guard Company, Delta, Utah.

Pvt George W. Goodale, 336th Military Police Escort Guard Company, Delta, Utah.

Pvt James W. Conrad, 336th Military Police Escort Guard Company, Delta, Utah.

Mr. Theodore Lewis, War Relocation Authority, Topaz, Utah.

Mr. Markus Campbell, War Relocation Authority, Topaz, Utah.

Mr. Lorne Bell, War Relocation Authority, Topaz, Utah.

Mr. Tsunel C. Baba, War Relocation Authority, Topaz, Utah.

DOCUMENTARY EVIDENCE

None

C-E-R-T-I-F-I-C-A-T-E

"I certify that I have examined these charges and that they are correct as are verified by the soldier's Service and Allied records."

Henry H. Miller

1st Lieut., C.M.P., Commanding.

Data as to restraint of accused: Confined in Company Guard House, 336th Military Police

(Give date, place, and initial date of any restraint of accused)

Escort Guard Company, C.U.R.C., Delta, Utah, since 2000, April 11, 1943.



TOP SECRET
CONFIDENTIAL

CONFIDENTIAL

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

(2)

(2)

(WRITE NOTHING BELOW THIS LINE)

(WRITE NOTHING ABOVE THIS LINE)

(Signature of accuser)

HENRY H. MILLER

1st Lieut., C.M.P., Commanding.

(Grade, organization, arm or service)

AFFIDAVIT

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this 14th day of April, 1943, and made oath that he is a person subject to military law and that he personally signed the foregoing charges and specifications, and further that he ~~has personally investigated the matters set forth in specifications and charge~~

(Indicate by specification and charge numbers)

and charge and charge, and that the same are true in fact, to the best of his knowledge and belief.

(Signature)

HARLIN C. CARSON

2nd Lieut., C.M.P., (Summary Court)

(Official character, as summary court, notary public, etc.)

NOTES.—At (*) strike out words not applicable.

If the accuser has personal knowledge of the facts stated in one or more specifications or parts thereof, and his knowledge as to other specifications or parts thereof is derived from investigation of the facts, the form of the oath will be varied accordingly. In no case will he be permitted to state alternatively, as to any particular charge or specification, that he either has personal knowledge or has investigated. If the oath is administered by a civil officer having a seal, his official seal should be affixed.

1st IND.

Headquarters NINTH SERVICE COMMAND

Fort Douglas, Utah

(Place)

April 26

(Date)

, 19 43

Referred for trial to MAJ. CARLTON C. HARRIS, JAGD, 0345016, Fort Douglas, Utah

(Grade, name, and organization of summary court, or trial judge advocate)

trial judge advocate, general court-martial appointed by paragraph 28, Special Orders No. 115,

Headquarters Ninth Service Command

April 26, 1943

, 19

By command

(Command or order)

of Major General JOYCE:

(Grade and name of commanding officer)

JOHN W. CRAMER

Lt. Col., JAGD

Assistant to Director

Administrative Division

018-27768-1

HEADQUARTERS
336th MILITARY POLICE ESCORT GUARD COMPANY
CENTRAL UTAH RELOCATION CENTER
DELTA, UTAH

HHM/rjl

201-PHILPOTT, Gerald B., (Enl)

April 14, 1943.

SUBJECT: Transmittal of Court-Martial Charges.

TO : Commanding Officer
Headquarters Eastern Security District
10 Exchange Place
Salt Lake City, Utah.

1. Herewith enclosed four (4) copies Charge Sheets for Court-Martial of Pfc Gerald B. Philpott, 14039254, this organization, charging him with involuntary man slaughter.

2. The Investigation Board, appointed by the Commanding General of the Ninth Service Command, composed of Lieutenant Colonel Frank E. Meek, Major Axel V. Boldt and First Lieutenant Chester S. Fleming, held a hearing and made an investigation on April 12th and 13th, 1943, and report is being filed with Headquarters Ninth Service Command.



HENRY H. MILLER
1st Lieut., C.M.P.,
Commanding.

201-Philpott, Gerald B.
x250.4 (336th MPEGCo) (ESD)

1st Ind.

JWM/db

HEADQUARTERS EASTERN SECURITY DISTRICT, 10 Exchange Place, Salt Lake City, Utah, April 16, 1943.

To: Commanding General, Ninth Service Command, Fort Douglas, Utah.
Attention: Internal Security Division.

1. Attention invited to basic communication.
2. This headquarters has no recommendations to submit.

1 Incl: n/c

Charge Sheet re: Gerald B. Philpott

WM. A. MARCH
Colonel, F.A.,
Commanding.

SPKSM (AS)

201-PHILPOTT, Gerald B.

x250.4 (336th MPEGCo) (ESD)

2nd Ind.

HEADQUARTERS NINTH SERVICE COMMAND, Fort Douglas, Utah, April 17, 1943.

TO: Commanding Officer, Eastern Security District, #10 Exchange Place,
Salt Lake City, Utah.

Specifications as listed in attached charge sheet are inconsistent with an offense tried under the 93rd A/W, and should be based on sample #88 to be found in Manual for Courts-Martial, U.S. Army 1928, on page 249 therein.



By command of Major General JOYCE:

L. B. C. Jones
L. B. C. JONES,
Lt. Colonel, GSC,
Executive, Internal Security Division.

1 Incl:
n/c

201-Philpott, Gerald B.
x250.4 (336th MPEGCo) (ESD)

3rd Ind.

GJK/db

HEADQUARTERS EASTERN SECURITY DISTRICT, 10 Exchange Place, Salt Lake City,
Utah, April 22, 1943.

To: Commanding General, Ninth Service Command, Fort Douglas, Utah.
Attention: Internal Security Division.

2nd indorsement complied with.

Clyde W. Wellen
CLYDE W. WELLEN,
Lt. Col, Infantry,
Acting Commanding Officer.

1 Incl:
Charge Sheet re: Gerald B. Philpott (3)

LXXX

(FORM NO. 100-10)

-INVESTIGATION OF COURT-MARTIAL CHARGES-

-DATA SHEET-

GERALD B. PHILPOTT
(Name)

14039254
(Serial No.)

Private first class
(Grade)

(JGIC FORM 100-10)

336th. Military Police Escort Guard Company, Delta, Utah,
(Organization and Station)

	YES	NO
1. Was the accused advised:		
a. That charges against him were being investigated?	*	
b. As to the nature of the charges against him?	*	
c. Of the name of the accuser?	*	
d. Of the names of the witnesses?	*	
e. Of his right to cross-examine any witnesses?	*	
f. Of his right to present any matter in defense or mitigation?	*	
g. Of his right to have the investigating officer examine any witness in his defense?	*	
h. Of his right to submit any statement orally or in writing?	*	
i. That such statement might be used against him in court?	*	
j. Of the maximum penalty in the event of conviction?	*	
2. Were the witnesses sworn?	*	
3. Were the witnesses examined in the presence of the accused?		*
4. In the opinion of the investigating officer is the accused now, or was he on the date of the commission of the alleged offense, mentally defective, deranged, or abnormal?		
5. Is a brief statement of the testimony taken on both sides attached to this report?	*	
6. Are these statements signed and sworn to before an officer authorized by Article of War 114, to administer oaths? (Not necessary but desirable if testimony is important)	*	
7. Is a brief statement made by the accused attached to this report?	*	
8. Were the attached documents examined and considered?	*	
9. Was the attached statement of previous convictions considered?	*	
10. Was the offense committed within the current enlistment of the accused and within one year preceding the date of the commission of the present alleged offense?	*	
11. Was any stipulation entered into and agreed upon and if so is a copy attached?		*
12. Are the charges signed and attested to by an officer authorized by Article of War 114, to administer oaths?	*	
13. Are the charges laid under the correct Article of War?	*	
14. Are the specifications correctly drafted? (See paragraph 29, Manual for Courts-Martial, 1928)	*	

(SEE REVERSE SIDE)

LEAVE THE SPACE ABOVE THIS LINE FOR BINDING

Gerald B. Philpott, 14039254
(Name and Serial Number of Accused)

1st Ind.

HQ. Ninth Service Command

April 22, 1943

TO: Major Alfred C. Bowman

You are hereby designated to investigate, in accordance with the provisions of the 70th Article of War, and Par. 35, Manual for Courts-Martial, 1928, the charges herewith dated April 14, 1943, against the accused named above.

By order of the Commanding General:

M. F. Mochau
M. F. MOCHAU
Major, AGD
Assistant Adjutant General
~~XXXXXX~~

2nd Ind.

INVESTIGATING OFFICER Major Alfred C. Bowman
General (Name)

April 24, 1943
(Date)

TO: Commanding ~~XXXXXX~~ Ninth Service Command, Fort Douglas, Utah,

REPORT OF INVESTIGATION OF CHARGES

1. In compliance with paragraph 35, Manual for Courts-Martial, 1928, I have investigated the inclosed charges dated April 14th, 1943 against Pfc. Gerald B. Philpott and recommend trial by *General
~~*Specified Command~~ - Court-Martial.

2. There is ~~no~~ - reasonable ground for belief that the accused is now or was on the date of the commission of the alleged offense mentally defective, deranged or abnormal.

3. *The witnesses were sworn and testified in the presence of the accused. A statement of the substance of the testimony taken on both sides, *including any stipulated testimony, is attached hereto.

4. ~~The accused declined to make a statement~~ - *The substance of statement made by the accused is attached hereto.

5. The following inclosed documents were considered.
None.

6. ~~Reconsidered~~ No statement as to previous convictions of the accused of offenses committed during his current enlistment and within one year preceding the date of the commission of the present offense, was considered.
There is no evidence of previous convictions.

7. There are ~~no~~ - extenuating circumstances.

8. It is recommended that the Charges - Specifications - be altered to read as follows: None.

A: (*) strike out words not applicable.

Alfred C. Bowman
Alfred C. Bowman
Major J.A.G.D.
INVESTIGATING OFFICER

Private First Class Gerald B. Philpott, Army Serial Number 14039254, 336th Military Police Escort Guard Company, Delta, Utah, having been fully advised of his rights under the 24th Article of War, and having stated voluntarily and without any duress influence or any promise of immunity that he desired to make the following statement in his own behalf, and having been first duly sworn, deposes and says:

My name is Private First Class Gerald B. Philpott. I have been in the Army since 2 years and 3 months. I have been at this Post since September 8, 1942. All of my service has been in the United States. I was legally posted as a Sentry on Post #8, at 7:00 p.m., on April 11, 1943. I, at that time, had an M-1903 thirty caliber rifle loaded with five rounds of ammunition, which was handed to me by Private Silas H. George, whom I relieved at that time.

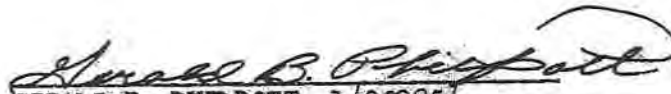
At 7:30 p.m., April 11, 1943, I saw a Japanese man walking toward me, about 1 foot from the fence and about 250 yards from my Sentry Tower, which is located in the southwest corner of the War Relocation Authority Area and Center.

I hollered "Halt", 4 times at him. He was looking straight at me when I hollered. After I had challenged him the 4th time, he turned and started to climb the fence. I fired one shot intending to frighten him. The shot struck him and he fell. I was carrying a .30 Caliber 1903M rifle, and this was the weapon I used.

After I had fired at him and he fell, Private Frank R. Baughman, who was on Post #9, which is the tower north of me, telephoned and said, "Have you got any trouble there." I told him what it was, and he said that he had had to halt him 2 or 3 times and get him away from the fence.

The man fell right by the fence.

I was then relieved from my post and ordered by the Company Commander, restricted to the Military Area.


GERALD B. PHILPOTT, 14039254
PFC 336th M.P.E.G. Company
C.U.R.C., Delta, Utah

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943


ALFRED C. BOWMAN
Major, J.A.G.D.

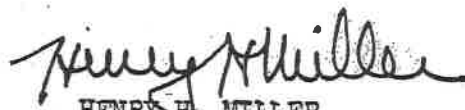
201-Philpott, Gerald B.
x 250.4 (336th M.P.E.G. Co.) (ESD)

HEM/lt

Headquarters 336th Military Police Escort Guard Company, War
Relocation Authority, Central Utah Relocation Project, Delta, Utah -
April 23, 1943.

To: Commanding General, Ninth Service Command, Fort Douglas, Utah.

1. I have read and considered the report of the Investigating
Officer and concur therein.
2. I recommend trial ~~by~~ general court martial.


HENRY H. MILLER
1st Lieutenant, C.M.P.
Commanding

Lieutenant Walter A. ~~P~~Alonzo, being first duly sworn, deposes and says:

My name is Walter A. ~~P~~Alonzo, First Lieutenant, Army Serial Number 01696030. I am a member of the Military Service and 336th Military Police Escort Guard Company, Delta, Utah.

I know Private First Class Gerald B. Philpott as a member of the 336th Military Police Escort and Guard Company.

At approximately 7:30 p.m., I was called by the Sergeant of the Guard, who told me that there had been an accident which consisted of the shooting of a Japanese evacuee. I proceeded to the west boundary of the project to the site of the accident at a point approximately 250 yards north of Tower No. 8. At this site, I saw an apparently dead Japanese male lying approximately 60 inches on the inside of the fence. The Japanese was lying on his back with his knees flexed under him. He appeared to be dead, but I did not determine the fact of death definitely at that time--although I did lift him up and observe a hole which apparently passed entirely through his body.

I then proceeded to Tower No. 8, where I found the accused, Private First Class Gerald B. Philpott, and asked him what had happened. I observed his demeanor and condition at that time and that he was sober and was not under the influence of narcotics--nor did he seem unduly excited or upset. Private Philpott told me that he had shot the Japanese who was lying on the ground by the fence and whom I had just grossly examined. I then proceeded back to the body and had it placed in the ambulance, on a stretcher, and then got into the ambulance myself and had it driven to the dispensary in the Military Police area.

I then got into the back of the ambulance and examined the body more carefully and determined that death had occurred. Upon closer examination, I also determined that there was a hole entirely through the body between the 3rd and 4th rib, just to the left of the sternum. From my experience and observation in other cases, it was my conclusion that the hole had been caused by a bullet which entered the body between the 3rd and 4th rib anteriorly on the chest just to the left of the sternum and had its exit posteriorly just to the right of the 6th thoracic vertebrae. The hole posteriorly was larger than the hole anteriorly. There is absolutely no question in my mind but that the bullet wound was the cause of death.

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943


ALFRED C. BOWMAN
Major, J.A.G.D.
Investigating Officer


Walter A. ~~P~~Alonzo, 1st Lieutenant
Army Serial Number 01696030
336th M.P.E.G. Co., Delta, Utah

My name is Ralph O. Barnhart. I have been Project Attorney for the War Relocation Authority at the Central Utah Relocation Center, Topaz, Utah since December 29, 1942.

I was notified about 8:45 p.m. on the evening of April 11 that a resident had been shot by a sentry. I went at once to the office, where the Acting Project Director, Lorne Bell, and other members of the staff and some of the evacuee residents were called in. The personal effects of the man that were on his person were brought into the office. They included his spectacles and some writing in English and Japanese. From those, several of the evacuee residents thought they could identify the person to whom they belonged. We came to the Military area and saw the body in the ambulance in front of the dispensary. I looked at the face and immediately recognized the body as that of James H. Wakasa, a resident of the Center and a Japanese evacuee who had come to my office many times between the date of my arrival and April 11, 1943.



Ralph O. Barnhart

Project Attorney

WRA Central Utah Relocation Center
Topaz, Utah

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943



ALFRED C. BOWMAN

Major, J.A.G.D.

Investigating Officer

Harlan C. Carson, being first duly sworn, deposes and says:

My name is Harlan C. Carson, Second Lieutenant, GMP, Army Serial Number 485400. I am a member of the 336th Military Police Escort Guard Company, Delta, Utah.

On April 11, 1943 I was Officer of the Day, coming on duty as such at 4:30 p.m. and my duty terminating at 4:30 p.m. on the following day. I am acquainted with Private First Class Gerald B. Philpott and know that he is a member of the Military Service and of the 336th Military Police Escort Guard Company.

I saw Private Philpott at 4:45 p.m. on April 11, 1943 and observed his demeanor and know that he was not at that time under the influence of intoxicating liquor or narcotics. I again saw Private Philpott immediately before he was posted as a guard at Post No. 8 at 6:45 p.m. Private Philpott departed from Headquarters in the direction of Post No. 8 unarmed.

About 7:30 p.m., I was notified that an evacuee had been shot in the vicinity of Post No. 8 and I proceeded to the vicinity of Post No. 8. About 250 yards from the tower at Post No. 8, I observed the body of a Japanese, whose identify was not known to me, lying on the ground about three feet inside the barbed wire fence which surrounds the War Relocation Authority, Central Utah Relocation Center.

Later the same evening, about 8:00 p.m., I took a relief guard out to relieve Private Philpott. The relief carried a rifle and when Private Philpott came out of the tower, he, therefore, brought with him the rifle which he had used while on duty. I did not examine the rifle closely, but observed that the bolt was down and the chamber exposed and it was apparent to me that the rifle had been fired when he turned the rifle and unexpended ammunition over to Corporal Marks.

Harlan C. Carson

Harlan C. Carson, 2nd Lieutenant,
Serial Number 485400
336th M.P.E.G. Company
Delta, Utah

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943

Alfred C. Bowman

ALFRED C. BOWMAN
Major, U.S.A.G.D.
Investigating Officer

Private Frank R. Baughman, being first duly sworn, deposes and says:

My name is Private Frank R. Baughman, Army Serial Number 34530386. I have been in the Service since November 20, 1942 and I served in World War I two years and six months. I have been in the station as a member of the Military Service and of the 336th Military Police Escort Guard Company since on or about January 25, 1943.

I was posted as a sentry on Post No. 9 of the Central Utah Relocation Center at about 7:00 p.m., April 11, 1943. Private First Class Gerald B. Philpott was posted at the same time and I observed that he was perfectly sober and obviously was not under the influence of liquor or narcotics. He was normal in every respect at that time and did not appear to be excited or upset.

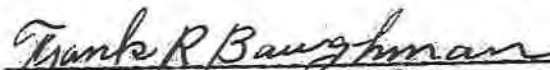
We were taken to our posts by a weapons carrier, which reached Post No. 8 first where Private Philpott got out. I got out at Post No. 9 which was the next stop. Shortly after I entered the tower on my post, I observed a Japanese loitering near the fence which ran in a straight line between Post No. 9 and Post No. 8. He was about 125 yards away from my post. I shouted at him to get away from there and he moved away from the fence, but I observed that he soon approached it again at a point perhaps 25 yards beyond the point where I had first seen him. I shouted at him again and he turned and proceeded directly away from the fence and I thought that he was going back to his building. It was almost dark by that time. About ten minutes after that, while I was looking in the other direction, I heard a shot from the direction of Post No. 8. I looked that way and saw that the lights were burning, but could not see anyone in between. I called Post No. 8 and asked Philpott if he had any trouble, and he told me that he had shot a Jap. I remained on my post until I was relieved--at between 9:00 and 9:30 p.m.--when I came to Post Headquarters at the request of the Company Commander. I proceeded from there to the ambulance, where I was shown the body of a Japanese. The body was that of the man I had warned away from the fence near my post earlier in the evening. I recognized him both by his face and his clothes.

Previous to the time mentioned in the affidavit, I had seen the same man near my post on a number of other occasions and had been forced to warn him to move away from the fence.

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943



ALFRED C. BOWMAN
Major, J.A.G.D.
Investigating Officer


Frank R. Baughman, Private
336th MPEG Co., Delta, Utah

My name is Sergeant Floyd C. Johnson, Army Serial Number 20716565.
I am a member of the Military Service and 336th Military Police Escort
Guard Company, Delta, Utah.

About 7:00 p.m., on April 11, 1943 I proceeded from Headquarters of
the 336th Military Police Escort and Guard Company, in a Jeep, to turn
on the lights along the fence surrounding the War Relocation Authority
Central Utah Relocation Center in Delta, Utah. I returned to Head-
quarters about 7:30 p.m. and was advised that a Japanese had been shot
near tower No. 8.

I proceeded to tower No. 8 and observed a Japanese, apparently dead,
about 250 yards from the tower. I then proceeded to the tower and
questioned Private First Class Gerald B. Philpott, who was on duty
there. I observed that he had a gun and that it was an M-1903 .30
caliber rifle. I did not examine the rifle to determine whether it
had been fired. I asked Private Philpott what had happened. He told
me that he had observed the Japanese, whose body was lying on the
ground, approach the fence and had shouted at him three or four times
and told him to get back, but that the Japanese had paid no attention
to his calls and had continued to approach the fence--and that he had
decided that he would have to shoot close to him to scare him away
and had done so.

Floyd C. Johnson

Sergeant Floyd C. Johnson
336th MPEG Co., Delta, Utah

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943

Alfred C. Bowman
ALFRED C. BOWMAN
Major, J.A.G.D.
Investigating Officer

Private Silas H. George, being first duly sworn, deposes and says:

My name is Private Silas H. George, Army Serial Number 34038087. I am a member of the Military Service and 336th Military Police Escort Guard Company, Delta, Utah.

I was posted as a Sentry at Tower No. 8 at 5:00 p.m. on April 11, 1943 and was relieved by Private First Class Gerald B. Philpott, whom I know to be a member of the Military Service and of the 336th Military Police Escort Guard Company, Delta, Utah, at about 7:00 p.m. on the same day.

While on duty as a Sentry in Tower No. 8, I was armed with an M-1903 .30 caliber rifle. Private Philpott was brought to the Post in a Weapons Carrier, which stopped at the base of the tower. When I saw the Weapons Carrier coming, I leaned my rifle against the inside wall of the tower, in one corner, and climbed down the ladder. I saw Private Philpott climb up the ladder and in the tower. I got into the Weapons Carrier and was taken back to the Military Police area.

Silas H. George
SILAS H. GEORGE, 34038087
Private 336th M.P.E.G. Company
Delta, Utah

SWORN AND SUBSCRIBED BEFORE ME THIS
23rd day of April, 1943

Alfred C. Bowman
ALFRED C. BOWMAN
Major, J.A.G.D.
Investigating Officer

Corporal Milton G. Marks, being first duly sworn, deposes and says:

My name is Corporal Milton G. Marks, Army Serial Number 6814675. I am a member of the Military Service and 336th Military Police Escort Guard Company, Delta, Utah.

I was desk Corporal at the Guard House on the evening of April 11, 1943. Sometime between 8:00 and 8:30 p.m. on that evening, Private First Class Gerald B. Philpott entered the Guard House and handed me one M-1903 .30 caliber rifle, four rounds of live ammunition and one empty cartridge of the same size. I observed that the bolt of the rifle was drawn and that the chamber was empty. I placed the rifle in the rack where we keep the sentries rifles. The rifle remained there until I went off duty at 1:00 a.m. on April 12, 1943.

Milton G. Marks

MILTON G. MARKS, 6814675
Corporal 336th M.P.E.G. Company
Delta, Utah

SWORN AND SUBSCRIBED BEFORE ME THIS

23rd day of April, 1943

Alfred C. Bowman

ALFRED C. BOWMAN
Major, J.A.G.D.
Investigating Officer

CCH/gp

HEADQUARTERS NINTH SERVICE COMMAND
OFFICE OF THE SERVICE COMMAND JUDGE ADVOCATE
FORT DOUGLAS, UTAH

April 26, 1943

UNITED STATES	(	REPORT OF STAFF JUDGE ADVOCATE
v.	)	
Private First Class Gerald B. Philpott	(	TO COMMANDING GENERAL, NINTH SERVICE COMMAND
ASN 14039254, 336th Military Police Escort	)	
Guard Company, Central Utah Relocation	(	ON COURT-MARTIAL CHARGES
Center	)	

----0----

1. The attached charges in the above entitled case, dated April 14, 1943 194_, together with the report of investigation thereof and papers therewith connected, have been referred to this office for action in accordance with the provisions of the 70th Article of War and paragraph 35 b, M.C.M. After due and careful consideration thereof, the following report and advice are submitted:

- a. The charges are correct and complete in form.
- b. They are appropriate to the indicated competent evidence in the case.
- c. Each specification states an offense cognizable by courts-martial.
- d. In my opinion, a prima facie case exists justifying trial upon each specification and Charge.
- e. There is nothing in these papers to indicate any reason for a belief that the accused may be mentally defective or deranged, either temporarily or permanently.

2. It is recommended that the charges be referred for trial to a general court-martial.

3. Attention of the Trial Judge Advocate is invited to the inclosed memorandum entitled "Preparation and completion of Records of Trial by general court-martial".

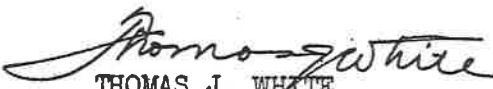
4. Attention is invited to a discussion of the offense of manslaughter set forth in Paragraph 149a, Manual for Courts-Martial, 1928.

5. The evidence introduced at the trial should include a full showing as to the instructions given the accused, that he was properly posted, armed, and furnished live ammunition, and the purposes for which such arms and ammunition were intended to be used. Events leading up to the alleged escape and surrounding circumstances, as well as the acts of the deceased, should be shown. The deceased should be adequately identified as James Wakasa, a Japanese internee.

6. Attention is directed to radio, this headquarters, January 8, 1943, requiring trial of all general court cases within seven days after receipt of the charges and allied papers by the trial judge advocate. In the event trial cannot be had within that time, a full report of all circumstances causing the delay will be made to this headquarters.

7. Upon completion of trial, immediate report will be made to this headquarters advising approximate time the record of trial may be expected.

8. These instructions are not intended to be exclusive, and the trial judge advocate will present all evidence that may be available and will fully exercise his own initiative in the preparation for, and conducting, the trial of this case.


THOMAS J. WHITE
Colonel, J.A.G.D.
Service Command Judge Advocate

COPY

WAR DEPARTMENT
Form 335
Approved by Comptroller of Treasury
July 25, 1919

WAR DEPARTMENT

PUBLIC VOUCHER
PERSONAL SERVICES

VOUCHER NO.

STAMP HERE
NAME, DESIGNATION, AND STATION
OF DISBURSING OFFICER

APPROPRIATION: _____ ITEM No. _____ \$ _____

APPROPRIATION: _____ ITEM No. _____ \$ _____

THE UNITED STATES.

To Private Michael J. Donohoe, Jr., Dr.

Address S.C.U. 1900, Fort Douglas, Utah.

DATE		CHARACTER OF SERVICES	NUMBER OF DAYS	RATE	AMOUNT	
From	To					
April 28, 1943.		For Reporting GCM case of Pfc Gerald B. Philpott Under authority of Par. 28, Special Orders 115 4/26/43 Dated April 26, 1943 Headquarters Ninth Service Command Per attached certified statement, Form 335a, which is hereby made a part of this voucher whenever used. Less deduction for		10¢ per folio 156 folios	15	60
NET AMOUNT OF THIS VOUCHER					15	60

I CERTIFY that the above bill is true and correct, and that payment thereof has not been received, or (that I am not related to the patient named on certificate).

(DO NOT SIGN IN DUPLICATE)

Private Michael J. Donohoe, Jr.

EXAMINED BY:

In cases where certificate below does not apply, the Certifying Officer must sign proper certificate on reverse hereof, and enter the number of the certificate signed (_____).

The certificate thus accomplished becomes a part of this voucher.

I CERTIFY that the foregoing account is correct; that it appears from the records of my office that the person named thereon was legally appointed or employed; that he has performed the service required by law and the regulations of the War Department during the period mentioned; that such service, except as otherwise indicated on attached statement, has been performed under my supervision; that the person whose name appears in the foregoing voucher is not paid for any period of absence in excess of that allowed by law; that he is entitled to the amount of pay stated above, and that any detail is indicated on statement attached hereto.

APPROVED for \$ 15.60

CARLTON C. HARRIS,
Major, J. A. G. D.

(Title)
Trial Judge Advocate

Date April 30, 1943

Paid by check No. _____, dated _____, 19____, for \$ _____

OR—

Received _____, 19____, of _____, in CASH, the sum of _____ dollars and _____ cents, in full payment of the above account.

(DO NOT SIGN IN DUPLICATE)

\$ _____

(1) **Reporter.** (Certificate as applied to old Form 339.)

I CERTIFY that _____ was employed by me as a reporter for _____, under the attached authority, and that the account for his services as stated is correct.

(2) **Medical Attendance or Hospital Care and Treatment.** (Certificate as applied to old Forms 353 and 355.)

I CERTIFY that the account as stated on the face hereof is correct; that the services were rendered and the medicines furnished in the care and treatment of the persons named; that they were necessary for the public service; that, of the said persons, the officers, enlisted men, contract surgeons, and nurses were on duty, the prisoners were in military custody, and the applicants for enlistment were held under observation at the time and place of treatment specified; that the services of a medical officer or contract surgeon of the Army could not be obtained because _____; or that treatment in civil hospital was necessary, no Army hospital being available, and was ordered by _____.

(3) **Examination and Vaccination of Recruits.** (Certificate as applied to old Form 354.)

I CERTIFY that the account as stated on the face hereof is correct; that the services were rendered; that they were necessary for the public service; that the men examined were applicants for enlistment, and the men vaccinated were recruits enlisted and duly sworn, or applicants accepted for enlistment; and that the services of a medical officer or contract surgeon of the Army could not be obtained because _____.

(4) **Nursing.** (Certificate as applied to old Form 356.)

I CERTIFY that the services of a nurse were indispensable to the proper care of the patient named on the face hereof; that the nurse was competent; that the services were rendered as claimed; and that the charges do not exceed those customary in this vicinity for competent nurses.

I CERTIFY that the account as stated on the face hereof is correct; that the patient named therein was (on duty) (in military custody) (held under observation) at the time and place specified; and that care in an Army hospital or by a properly qualified attendant of the Medical Department could not be obtained because _____.

(5) **Fitting Artificial Limbs.** (Certificate as applied to old Form 374.)

I CERTIFY that the above examinations and fittings were necessary for the public service; that the records of this office show that they were made by the claimant; and that the fees claimed do not exceed those authorized by the Surgeon General for such service. This voucher is approved by order of the Surgeon General.

(6) **Payment of Reward for Apprehension of Deserter or Escaped Military Prisoner.** (Certificate as applied to old Form 349.)

I CERTIFY that the person named on the face hereof has arrested and this _____ day of _____, 19____, actually delivered to me the before-named _____ (an escaped military prisoner) or (a deserter from the military service) of the United States and is entitled to the authorized reward for said service, and that _____ has no right to claim exemption from trial and punishment for desertion under the provisions of Article 39, Articles of War (39 Stat. 656).

This account is hereby approved for \$ _____, and the commander of the company or detachment to which the deserter belongs has been officially notified.

COPY

WAR DEPARTMENT
Form 885-A
Approved by Comptroller of Treasury
July 25, 1919

WAR DEPARTMENT

To Be attached to Form 885

STATEMENT OF PERSONAL SERVICES

VOUCHER No. _____

RENDERED AS SHOWN IN DETAIL BELOW

THE UNITED STATES

To Private Michael J. Donohoe, Jr.
S.C.U. 1900 - Fort Douglas, Utah, DR.

(1) DATE		(2) CHARACTER OF SERVICES RENDERED	(3) TO WHOM RENDERED. DISEASE OR DISABILITY	(4) RATE	(5) AMOUNT
From— 19 43	To— 19 43				
April 28	Apr. 29	Reporting trial. 156 folios (15,600 words) rate - 10¢/folio	Reporting trial of Pfc Gerald B. Philpott, 14039254, pursuant to Paragraph 28, Special Orders No. 115. Trial held April 28, 1943. Headquarters Ninth Service words Command, Fort Douglas, Utah	10¢ per 100	15 60
					15 60

(This statement must be completely made out by payee before certification and attached to voucher. There must be no alteration or erasure.)

I CERTIFY that the above statement is true and correct, and that the amounts are the customary charges and not excessive.

Private Michael J. Donohoe, Jr.

HEADQUARTERS NINTH SERVICE COMMAND
OFFICE OF THE COMMANDING GENERAL
FORT DOUGLAS, UTAH

April 26, 1943

201 - (Philpott, Gerald B.) (SPKIJ)

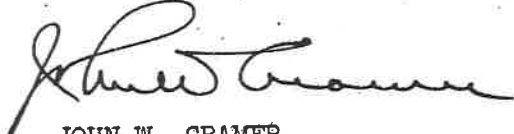
SUBJECT: Transmittal of Charges.

TO: Major Carmon C. Harris, 0345016, Trial Judge Advocate of
General Court-Martial appointed by Paragraph 28, Special
Orders 115, Headquarters Ninth Service Command, April
26, 1943

1. The charges and allied papers in the case of Private First
Class Gerald B. Philpott, 14039254, 336th Military Police Escort Guard
Company, Central Utah Relocation Center, are handed you herewith.

2. Your attention is directed to the provisions of the
70th Article of War and to Paragraphs 6 and 7 of the Report of Staff
Judge Advocate, dated April 26, 1943.

By command of Major General JOYCE:


JOHN W. CRAMER
Lt. Col., J.A.G.D.
Assistant to Director
Administrative Division

Incl:
Charges and Allied papers.

HEADQUARTERS NINTH SERVICE COMMAND
OFFICE OF THE JUDGE ADVOCATE
FORT DOUGLAS, UTAH

April 27, 1943

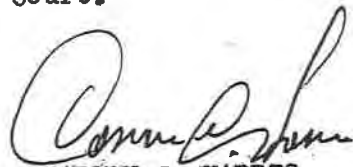
(SPKIJ) (Philpott, Gerald B.)

SUBJECT: Trial by General Court-Martial.

TO: Colonel James M. Graham, Inf; Colonel Raymond W. Pearson, DC;
Colonel Edwin J. O'Hara, FD; Colonel Robert W. Yates, GSC;
Colonel Shephard L. Pike, GSC; Colonel John W. Thompson, GSC;
Colonel Lloyd T. Jones, AG; Colonel John H. Schaefer, MC;
Lieutenant Colonel Charles J. Allen, AGD; Major Daniel W. Babcock, MC.
Major Frederick F. Ackerman, MC; Captain Donald H. Grant, JAGD,

Each of the above named members of the General Court-Martial appointed by Paragraph 28, Special Orders 115, HNCS, dated April 26, 1943, is hereby notified that the court will meet at 0900 o'clock, April 28, 1943, at the old Officers' Club, Fort Douglas, Utah. Uniform will be Class "A".

By direction of the President of the Court.


CARMON C. HARRIS
Major, J. A. G. D.
Trial Judge Advocate

RECORD OF TRIAL

of

PHILPOTT

(Last name)

GERALD B.

(First name and middle initial)

14039254

(Army serial No.)

PRIVATE FIRST CLASS

(Grade)

336th Military Police Escort Guard Co.

(Organization)

Central Utah Relocation Center,
Delta, Utah

(Station)

By

GENERAL COURT MARTIAL

Appointed by the Commanding ~~Officer~~ GENERAL

HEADQUARTERS NINTH SERVICE COMMAND

Tried at

Fort Douglas, Utah.

April 28, 19 43

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Pleas	5
Statement by accused	45 to 49
Findings	52
Sentence (or acquittal)	53
Proceedings in revision	None

TESTIMONY

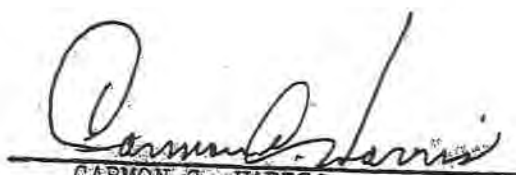
NAME OF WITNESS	Direct Page	Cross Page	Redirect Page	Recross Page	Court Page	Recalled Page
PROSECUTION:						
Mr. Tsuneo Baba	34-35				35-36	
Mr. Ralph C. Barnhart	29-30				30	
Private Frank R. Baughman	15-19	19-20			20	
Mr. W. B. Kline	30-33				33	
1st Lt. Harold G. Carson	6-11	11-13			11-13	39
1st Lt. Walter A. D'Alonzo	26-28	28-29			29	
Private Silas H. George	22-24	24			24	
Sergeant Floyd C. Johnson	20-22				22	
Corporal Milton G. Marks	24-26				26	
Mr. L. N. Nickle	36-37	37-38			38-39	
DEFENSE:						
Private Frank R. Baughman	43-45				45	
Private Silas H. George	42-43				43	
Sergeant James E. Hoyle	49-50				50	
Sergeant Floyd C. Johnson	40-41				42	
Pfc Gerald B. Philpott	45-49				49	

EXHIBITS, ETC., APPENDED

Description	Number	Page where introduced
Special Guard Orders for All Posts	"A"	12-13
Extract from Special Guard Orders #2 for Post #8	"B"	14
Form WRA 26 (record of James H. Wakasa)	"C"	32
Extract Copies of Guard Book in eight parts	"D"	41

C E R T I F I C A T E

I, CARMON C. HARRIS, Major, J.A.G.D., Trial Judge Advocate of the General Court Martial appointed by Paragraph 28, Special Orders No. 115, Headquarters Ninth Service Command, dated April 26, 1943, now on this 30th day of April, 1943, served a copy of the attached record on Private First Class Gerald B. Philpott by placing the same in an envelope and disposing it at the United States Post Office at Fort Douglas, Utah, properly addressed to the said Private First Class Gerald B. Philpott at his address Delta, Utah, with postage prepaid thereon.



CARMON C. HARRIS
Major, J. A. G. D.
Trial Judge Advocate

(CORRECTED COPY - Destroy all previous copies)

R E S T R I C T E D

Proceedings of a GCM which convened at Ft Douglas, Utah pursuant to the following orders:

Special Orders)

No..... 115)

HEADQUARTERS NINTH SERVICE COMMAND

Fort Douglas, Utah

April 26, 1943.

- EXTRACT -

28. A GCM is aptd to meet at Ft Douglas, Utah at 0900 on Apr 27, 1943 or as soon thereafter as practicable for the trial of Pfc Gerald B. Philpott 14039254 ONLY.

Detail for the Court

- 1 COL JAMES M. GRAHAM 0665 Inf
- 2 COL SHEPARD L. PIKE 01368 GSC
- 3 COL RAYMOND W. PEARSON 03994 DC
- 4 COL EDWIN J. O'HARA 03227 FD
- 5 COL ROBERT W. YATES 05689 GSC
- 6 COL JOHN W. THOMPSON 07757 GSC
- 7 COL JOHN H. SCHAEFER 0104135 MC
- 8 COL LLOYD T. JONES 0112845 AC
- 9 LT COL CHARLES J. ALLEN 04590 AGD
- 10 MAJ DANIEL W. BABCOCK 0269340 MC
- 11 MAJ FREDERICK F. ACKERMAN 0332290 MC
- 12 CAPT DONALD H. GRANT 0166661 JAGD Law Member
- A MAJ CARMON C. HARRIS 0345016 JAGD TJA
- B 1ST LT JOHN P. SPIELMAN 0277175 Inf Asst TJA
- C MAJ PAUL C. GROW 0244082 Inf Def Counsel
- D 1ST LT JOHN L. MELTON 0432857 Inf Asst Def Counsel

The employment of an enl reporter is authorized if available; if not, the employment of a civilian reporter is authorized. (250.42 (SPKIJ))

By Signature of Major General JOYCE:

P. R. DAVISON,
Colonel, General Staff Corps,
Chief of Staff.



R E S T R I C T E D

(CORRECTED COPY - Destroy all previous copies)

PROCEEDINGS OF A GENERAL COURT MARTIAL

which convened at Fort Douglas, Utah, pursuant to the following order :

R E S T R I C T E D

Special Orders)

HEADQUARTERS NINTH SERVICE COMMAND

Fort Douglas, Utah

April 26, 1943.

No..... 115)

- EXTRACT -

28. A GCM is aptd to meet at Ft Douglas, Utah at 0900 on Apr 27, 1943 or as soon thereafter as practicable for the trial of Pfc Gerald B. Philpott, 14039254 ONLY.

Detail for the Court

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1ST LT JOHN L. MELTON 0432857 Inf Asst Def Counsel

The employment of an enl reporter is authorized if available; if not, the employment of a civilian reporter is authorized (250.42 (SPKIJ))

By command of Major General JOYCE:

P. R. DAVISON,
Colonel, General Staff Corps,
Chief of Staff.

OFFICIAL:

CHAS. C. QUIGLEY
Colonel, Adjutant General's Department,
Adjutant General.

R E S T R I C T E D

(Affix to this page a literal copy of the order appointing the court and following it, copies of any orders modifying the detail.)

Record of trial GCM.
See appendix 6, MCM.

16-52903-1

Fort Douglas, Utah.

(Place)

April 28,

(Date)

1943

ORGANIZATION OF THE COURT

The court met pursuant to the foregoing order at 0900 o'clock A.M.

PRESENT

1 COL JAMES M. GRAHAM 0665 Inf
2 COL SHEPARD L. PIKE 01368 GSC
3 COL RAYMOND W. PEARSON 03994 DC
4 COL EDWIN J. O'HARA 03227 FD
5 COL ROBERT W. YATES 05689 GSC
6 COL JOHN W. THOMPSON 07757 GSC
7 COL JOHN H. SCHAEFER 0104135 MC
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12 MAJ CARMON C. HARRIS 0345016 JAGD TJA
13 1ST LT JOHN P. SPIELMAN 0277175 Inf Asst TJA
14 MAJ PAUL C. GROW 0244082 Inf Def Counsel
15 1ST LT JOHN L. MELTON 0432857 Inf Asst Def Counsel

ABSENT

16 MAJ FREDERICK F. ACKERMAN 0332290 MC, excused by appointing authority.

The court proceeded to the trial of Private first class Gerald B. Philpott

(Grade)

(Name)

14039254

336th Military Police Escort Guard Company,

(Army serial number)

(Organization)

who, on appearing before the court, was asked by the trial judge advocate whom he desired to introduce as counsel.

Record of trial GCM.

See appendix 6, MCM.

16-32903-1

The accused stated he desired to be defended by: Regularly appointed defense counsel.
Pvt. Michael J. Donohoe, Jr., was sworn as reporter.

PROSECUTION TO ACCUSED: Do you want a copy of the Record?

ACCUSED: I do.

The trial judge advocate then announced the names of the members of the court
present and absent.

PROSECUTION: If any member of the court is aware of any facts which
he believes to be a ground of challenge by either side against any member, it is requested he
state such facts.

No response.

PROSECUTION: The prosecution has no challenges.

PROSECUTION TO ACCUSED: You now have the right to challenge any member
or members of the court for cause, and any one member, other than the law member,
peremptorily.

DEFENSE: The defense has no challenges peremptorily or challenges for cause.

The accused was then asked if he objected to any other member present, to which he
replied in the negative.

Record of trial GCM.
See appendix 6 and AW 19 (p. 207), MCM.

16-32903-1

The members of the court and the personnel of the prosecution were then sworn.

ARRAIGNMENT

The accused was then arraigned upon the following charges and specifications:

CHARGE : Violation of the 93rd Article of War.

SPECIFICATION : In that, Private First Class Gerald B. Philpott,
336th Military Police Escort Guard Company did, at Central Utah Re-
location Center, Delta, Utah, on or about April 11, 1943, wilfully,
feloniously, and unlawfully kill James H. Wakasa, an Evacuee, resident
of War Relocation Authority Center, Delta, Utah, by shooting him in
the chest with an M-1903 .30 caliber rifle.

Henry H. Miller

(Signature of accuser (TYPED))

HENRY H. MILLER

(Name (TYPED))

1st Lieutenant, C.M.P. Commanding

(Grade, organization, or arm or service)

AFFIDAVIT

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser, this 14th day of April, 1943, and made oath that he is a person subject to military law and that he personally signed the foregoing charges and specifications, and further that he ~~*has personal knowledge of the matters set forth in specifications~~

(Indicate by specification

and charge numbers) and charge; ~~and~~ *has investigated the matters set forth in specifications and charge, and that the same are true

(Indicate by specification and charge numbers)

in fact, to the best of his knowledge and belief.

HARLIN C. CARSON

(Signature (TYPED))

HARLIN C. CARSON

(Name (TYPED))

2nd Lieut., C.M.P.

(Grade and organization)

(Summary Court)

(Official character, as: summary court, notary public, etc.)

1st IND.

Headquarters NINTH SERVICE COMMAND, Fort Douglas, Utah April 26, 1943
(Place) (Date)

Referred for trial to MAJ. CARMON C. HARRIS, JAGD, 0345016, Fort Douglas, Utah
(Grade, name, and organization of trial judge-advocate)

Trial Judge Advocate of general court-martial appointed by paragraph 28, Special

Orders No. 115, Headquarters Ninth Service Command April 26, 1943

By command of Major General JOYCE

(Grade and name of commanding officer)

/s/ John W. Cramer, ~~MAJ. CRAMER~~

JOHN W. CRAMER, Lt. Col., JAGD

Assistant to Director Administrative Division

The accused then pleaded as follows:

To the Specification of the, Charge NOT GUILTY

To the Charge NOT GUILTY

Record of trial GCM.

See appendices 3 and 6, MCM.

16-32903-1

*Strike out phrase not applicable.

At the request of the defense counsel, the trial judge advocate read the following to the Court: (first three paragraphs of 149a, page 165 of MCM 1928)

~~By direction of the court, the following matters were read to the court by the trial judge advocate to wit:~~

"149. NINETY-THIRD ARTICLE OF WAR.

a. MANSLAUGHTER

DISCUSSION.--See 148 a. Manslaughter is unlawful homicide without malice aforethought and is either voluntary or involuntary.

Voluntary manslaughter is where the act causing the death is committed in the heat of sudden passion caused by provocation.

Involuntary manslaughter is homicide unintentionally caused in the commission of an unlawful act not amounting to a felony, nor likely to endanger life, or by culpable negligence in performing a lawful act, or in performing an act required by

The _____ prosecution _____ then made _____ no _____ opening law." statement to the court.

TESTIMONY FOR THE PROSECUTION

Second Lieutenant Harlin C. Carson, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your full name, ^{rank}~~grade~~, organization, and station.

A. Harlin C. Carson, Second Lieutenant, 356th Military Police Escort Guard Company, Central Utah Relocation Center, Delta, Utah.

~~Q. Do you know the accused?~~

~~A. Yes.~~

~~Q. Have you been in the military service of the United States?~~

~~A. Yes.~~

~~Q. What is his grade and organization?~~

~~A. _____~~

Record of Trial GCM.

See appendix 6 and AW 19 (p. 207), MCM.

16-33003-1

Q. What is your assignment or capacity with the Company?

A. The duty officer of the Company.

Q. You are not the Commanding Officer?

A. I am not sir.

Q. Where is the Company located with respect to the center where a certain Japanese resident or rather Japanese residents stay?

A. We are in the northeast corner just outside the fence that is around the center.

Q. Explain to the Court what is the function of the Company with which you belong with respect to the Japanese residents of the center?

A. We enforce the orders of the Commanding Officer in respect to keeping the Japanese residents within the center. We also enforce the rules and regulations laid down by the WRA. In the day time the Japanese have free access to farming and exercising but at night time, during the hours of 7 at night until 7 in the morning, the Japanese are to stay and remain within the center.

Q. What is the WRA?

A. War Relocation Authority.

Q. War Relocation Authority?

A. Yes sir. Their function is to maintain and keep the records of the Japanese residents in that area.

Q. In other words they handle the administration?

A. That is right, sir.

Q. Your Company handles the guard and the War Relocation Authority handles the administration work?

A. That is right, sir.

Q. Did you have on the 11th day of April, 1943, a soldier in your Company by the name of Private first class Gerald B. Philpott?

A. We did sir?

Q. Were you personally acquainted with Private first class Gerald B. Philpott before that time?

A. I was sir.

Q. Is he in the court room at this time?

A. Yes sir, he is.

Q. Where is he?

A. (Pointed out accused to Court)

Q. He is the one at the defense counsel table?

A. Yes sir.

- Q. Calling your attention to the 11th day of April, 1943, I will ask you what were your duties at that particular time?
- A. My duties beginning at 4:30 o'clock were officer of the day.
- Q. Were you performing your duties?
- A. Yes sir, for 24 hours on that day.
- Q. I will ask you if anything occurred unusual after you had assumed your duties as officer of the day on April 11, 1943?
- A. Yes sir. About 7:30 that evening I was notified that a Japanese man had been shot.
- Q. Where were you when you were notified of the shooting?
- A. I had just taken Captain Nail's family to their home which was within the center.
- Q. What did you do upon learning that a Japanese resident had been shot?
- A. I immediately returned to the guard house. Upon arriving at the guard house I learned that the doctor and the commanding officer had been notified. I then was notified that it was from Post No. 8 and I got a relief sentry and proceeded to the vicinity where the Japanese was shot.
- Q. What post did you go to when you left the guard house?
- A. I proceeded around the area on the right past post No. 10, past Post No. 9 and over to a point between Post No. 9 and Post No. 8.
- Q. What did you see when you arrived at this point between Posts No. 8 and No. 9?
- A. The ambulance had arrived and the doctor was there and there were 3 or 4 enlisted men present and there was a body laying inside the fence.
- Q. How far was the body laying from the fence?
- A. Approximately three feet.
- Q. What was the position of the body? Was he laying on his face or on his back?
- A. He was laying on his back with his legs folded underneath him. He was facing No. 8 tower.
- Q. Did you make any examination of the body?
- A. I didn't sir but the doctor had made one and then I requested the doctor to make an examination to check to see if the body had any wound.
- Q. Could you see if there was any wound?
- A. You couldn't see any wound unless you observed the body closely.
- Q. Was there any blood around the body?
- A. You couldn't see any blood until you moved the body and when you picked the body up you could see some blood then.

Q. About what time was this?

A. It was about 7:40 P.M.

Q. Was it dark or light outside?

A. Just dusk, sir.

Q. Did you see the accused at the place where the body was?

A. I saw the accused shortly after that.

Q. Where was the accused?

A. In the guard tower.

Q. On what tower?

A. He was in guard tower No. 8, sir.

Q. Is that where he was posted?

A. That is correct, sir.

Q. Did you have him posted or did you see him posted at his tower No. 8?

A. I didn't sir but the sergeant of the guard did sir.

Q. Sergeant Johnson, he was the sergeant of the guard that day wasn't he?

A. Yes sir.

Q. What was the next thing you did in respect to the removal of the body and things of that nature?

A. After he was examined I ordered the body be removed and taken into the military area. I then relieved Private first class Gerald B. Philpott and posted a new sentry and proceeded back to the military area.

Q. You relieved Philpott?

A. Yes sir.

Q. What did you do with Philpott?

A. I told him to remain in the guard house until further notice.

Q. Did you talk with the accused?

A. I talked with him in the vicinity of the shooting and when we proceeded from the tower to the guard house I talked with him.

Q. Were you able to discern and your observation of him as to whether he was under the influence of any drugs or liquors?

A. Yes sir, I was.

Q. And what is your opinion ^{as} to that?

A. He was normal; he hadn't been drinking or he wasn't using any drugs.

- Q. Had you seen the accused earlier in the evening? Prior to his being posted?
- A. Yes sir, I had.
- Q. What was his condition when you saw him prior to his being posted?
- A. Normal and cold sober. He was very normal sir and was not under the influence of any drugs or liquor whatsoever.
- Q. Did you examine the rifle with which he was armed with after the shooting?
- A. I didn't look into the chamber. I just carried it back to the guard house.
- Q. Lieutenant Carson, can you tell the Court what instructions have been given to the guards in general with respect to their conduct when a Japanese resident of that center violates any of the rules and regulations with respect to ingress and egress?
- A. Yes sir. The guards have been instructed to fire a warning shot if it became necessary to warn someone from the fence and they have followed the instructions all the way through sir.
- Q. Have any instructions ever been given to the Japanese residents by your organization or would that be given to them by some other organization?
- A. That would be given to the residents by some one else.
- Q. You have nothing to do with the men in the center?
- A. We do not sir.
- Q. Now where the incident took place, was that in a forbidden area or would you say that was in an area where the Japanese residents had a right to be?
- A. It is not in a forbidden area as they have a right inside the fence but he was too close to the fence and they are instructed to keep away from the fence after 7 o'clock at night.
- Q. I wish you would explain to the Court the physical condition of the vicinity where this center is, explain the lay of the ground with respect to the Japanese quarters and the guard house and the towers in order that the Court will have a clearer view of the situation. Can you do that?
- A. I will try sir. We have a mile square area which is called the center. This mile area is the residential area of the Japanese and War Relocation Authority officials. It is fenced in by a barb-wire fence. Our military police area is in the north east corner of this mile square and is not within the fence; the fence is indented around our area. In the middle of the northern boundary of the center is our main gate, Post No. 1, along the fence line eastward to a point next to the military area is another gate, post No. 2. Further along and also within the military area is another gate, Post No. 3. These gates are for passage of traffic and also pedestrians and Japanese residents with proper passes. In the north east corner of the center is our first guard tower, Post No. 4, along the fence line southward to the next corner is another guard tower, Post No. 6; midway between these two guard towers is another, Post No. 5; proceeding westward along the fence line from the tower in the southeast corner, guard tower No. 6, one mile is another tower in the southwest corner, No. 8, midway between the tower in the southeast corner, No. 6, and the one in the southwest corner, No. 8, is another tower, No. 7; proceeding northward from the tower in the southwest corner, No. 8, along the fence line, one mile, is tower No. 10, which is the northwest corner, midway between these two towers, No. 8 and 10, is tower No. 9, proceeding eastward from tower No. 10, which is in the north west corner, along the fence line brings us back to the starting point, the

main gate, Post No. 1, which is in the middle of the northern side. The Japanese can use any of these gates located at the various towers during the day time. There is a gate at Post No. 8 and the Japanese are allowed to use it but only during the day time. There is a forbidden area for the residents but that is the sewage disposal system and only those Japanese authorized to go inside there are allowed.

Q. You say there is a gate at or near guard tower No. 8?

A. There is one directly at tower No. 8.

Q. How far was this body from the gate then?

A. I would say about 240 yards sir.

Q. Was there any gate in the vicinity of where the body lay?

A. No sir there wasn't.

Q. Would you say that a person could climb over the fence where you found the body?

A. Very easily sir.

Q. That is why they have guards there to prevent them from climbing the fence?

A. That is correct sir.

TJA: No further questions. Does the defense desire to cross-examine?

DC: Will you tell the Court how high this fence is where the body was?

A. The top strand is about four feet from the ground.

DC: Is there anything erected on the top of the fence to impede or deter anyone from climbing the fence?

A. There isn't anything sir.

DC: Have there been occasions when evacuees have climbed the fence and attempted to escape?

A. There have been. Yes sir. Prior to our time of guarding the place there were several.

DC: You mentioned in your testimony that there was a gate which evacuees might go through with proper authority. On this night of April 11, 1943, did James H. Wakasa possess such a pass or authority to go through any of the gates?

A. He did not sir and furthermore, after 7 o'clock in the evening, they are not allowed near the gate at Tower No. 8. They must use the main gate at guard tower No. 1.

DC: That is all the questions we have.

TJA: Any questions by the court?

President: You referred to a center. Please give its full official title and location?

A. The area sir is called the Central Utah Relocation Center. That area is

approximately 27 square miles. Within that area we have what we call a center, fenced in where the residents live. The outside area is where the residents do their farming and exercising and such other matters as would require them to go outside of the center. Around this 27 square mile area we have red signs every 100 yards. These are large red signs and printed on them are General DeWitt's proclamation, printed both in Japanese and in English.

President: What is the geographic location of this center?

A. The center is approximately 14 miles northwest of Delta, Utah.

President: Please state the special orders for the post upon which the sentry was posted?

A. His post was sentry tower No. 8 sir. His orders were to allow no one to pass into the center or out of the center as far as he could see up the fence and he was to use every means available and necessary to prevent anyone from leaving.

TJA: Any further questions by the Court?

Member of the Court: Was the sentry ordered to keep the rifle loaded?

A. Yes sir. He had orders to have the rifle loaded.

TJA: Are the orders present in the Court now?

Defense Counsel: The defense has a copy of the special orders.

DC: Lieutenant Carson, I hand you Exhibit "A" for identification purposes. Do you identify this document?

A. I do sir.

DC: Tell the Court what it is?

A. This is a true and correct copy of the special guard orders for all posts.

DC: And these orders as appear on the copy were in effect on the night of April 11, 1943?

A. That is right, sir.

DC: I will read the following:

"Exhibit 'A'
336TH MILITARY POLICE ESCORT GUARD COMPANY
DELTA, UTAH

September 11, 1942.

SPECIAL GUARD ORDERS FOR ALL POSTS

1. No Japanese person will be allowed to enter or leave the area except when accompanied by a member of the staff of War Relocation Authority. If a Japanese person attempts to leave the area it is the duty of the Military Police to cause his arrest and to use whatever force is necessary, to do so.

2. All persons bearing badges either blue, red or white bearing the words "U.S. Engineers, Abraham Relocation Center" and a number will be allowed to enter or leave the area upon display of such a badge. The sentry should determine that all persons in any car have badges.

"3. Any person seeking employment with the Construction Company, will be passed from one sentry to the next and will be directed to the Employment Office;

4. Persons bearing a written pass signed by an official of War Relocation Center, will be permitted to enter, upon presentation of their pass and will be permitted to leave the area only upon presentation of their pass properly validated by an official of War Relocation Center, within the area.

5. The roads leading from Post #1 and 3, and from Post #5 to 1, are used by civilians residing in the country beyond the Reservation. Cars whose drivers state that their destination is beyond the Reservation, will be passed upon their own statement provided no Japanese is in the vehicle. The drivers should be warned not to enter the Reservation on route, but to drive directly by and to have conversation with no one.

6. Post #1 and 5 will restrict the movement of Military Personnel and will not permit any member of this Command to leave the Post without a properly signed pass or work order.

7. All officers of the U.S. Army will be passed by all sentries at all times.

DONALD R. NAIL
1st Lt., C.M.P.
Commanding"

TJA: You have stated that this is a true copy of the special guard orders for all posts?

A. Yes sir, it is.

TJA: I ask you, where is the original of these orders?

A. I may have the original in my files.

TJA: It is in your possession then?

A. Yes sir.

TJA: It is kept in the guard house at Delta, Utah?

A. It is.

TJA: You know that it is a true copy and a correct copy?

A. I do sir.

TJA: You have compared this copy with the original?

A. I have sir.

TJA: We join the defense in the offering of Exhibit "A".

Law Member: Exhibit "A" will be received in evidence.

Defense Counsel: Lieutenant Carson, this is Exhibit "B". For identification purposes, will you identify this document for the Court?

A. It is a true copy of an extract from special guard orders No. 2 for Post No. 8

DC: Is this a copy of the orders that were in effect on the night of April 11, 1943.

A. It is sir.

DC: Was a copy of this order posted in the sentry house?

A. Yes sir.

DC: I offer into evidence Exhibit "B", "Extract from Special Guard Orders #2".

TJA: You have stated Lieutenant Carson that this is a true copy of the original. Where is the original?

A. The original is in the company files or I may have it.

TJA: It is in your possession?

A. Yes sir.

TJA: You have compared this with the original?

A. I have sir.

TJA: I notice that this is an extract and I take it that it is part of a special order?

A. That is right sir.

TJA: The prosecution joins the defense in the offering of Exhibit "B".

DC: Exhibit "B" for identification purposes is offered into evidence.
(The following exhibit was read to the court)

"Exhibit 'B'"

HEADQUARTERS
336th MILITARY POLICE ESCORT GUARD COMPANY
CENTRAL UTAH RELOCATION CENTER
DELTA, UTAH

January 12, 1943.

EXTRACT FROM SPECIAL GUARD ORDERS # 2

POST # 8

1. One man armed with rifle at night and shotgun during the day.
2. During daytime, sentry will permit passage and return of Japanese residents when properly identified.
3. Will permit passage of War Relocation Authority Employees.
4. Will prohibit any other traffic. Employees of Contractors and U. S. Engineers will not be permitted to use this gate.

DONALD R. NAIL
1st Lieut., G.M.P.,
Commanding."

Law Member: Exhibit "B" will be received in evidence.

TJA: Are there any further questions by the Court?

President: The witness is excused.

Defense Counsel: We request that the witness be retained as a witness for the defense.

Private Frank R. Baughman, 336th Military Police Escort Guard Company, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. Will you state your name, grade and organization?

A. My name is Private Frank R. Baughman, my serial number is 34530386, and my organization is 336th Military Police Escort Guard Company, Delta, Utah.

Q. Is that the organization that Lieutenant Carson is one of the officers?

A. Yes sir.

Q. Is that located at the Central Utah Relocation Center, Delta, Utah?

A. Yes sir.

Q. Do you know the accused in this case?

A. I do sir.

Q. Private first class Gerald B. Philpott?

A. Yes sir.

Q. Is that him? (Pointing him out)

A. Yes sir, it is.

Q. Do you know whether he is in the military service?

A. Yes sir, he is.

Q. I wish to recall the date of April 11, 1943 to you. Do you remember that date by reason of any thing unusual happening or anything having transpired that evening?

A. Well sir I was posted on No. 9.

Q. You were posted on guard tower No. 9?

A. Yes sir.

Q. What time were you posted?

A. At 7 o'clock sir.

Q. How far is Post No. 9 from Post No. 8?

A. 880 yards sir.

Q. Who was posted on guard tower No. 8, if you know?

A. Private Philpott was posted on Tower No. 8.

Q. Were you posted together?

A. Yes sir.

Q. What time did you go on duty?

A. 7 o'clock sir.

Q. Shortly after you had gone on your post that evening, did you see any person loitering around your post?

A. Yes sir.

Q. What time was that?

A. Well sir it was about 7:30.

Q. Was it daylight or dark?

A. Just breaking dark sir.

Q. Did you recognize the person loitering around down there?

A. Yes sir.

Q. Who was the person?

A. It was a Japanese sir.

Q. Did you know his name?

A. No sir.

Q. Was he alone?

A. Yes sir, except there was a dog.

Q. There was a dog with him?

A. Yes sir.

Q. What was he doing?

A. He was near the fence and I told him to get away from my post.

Q. About how far away from your post was he?

A. About 125 yards sir.

Q. What was he doing? Was he walking or standing?

A. He was walking.

Q. In what direction was he walking?

A. Toward the fence, west.

Q. The direction he was walking, was that taking him away from the camp?

A. Yes sir.

Q. And he was walking toward the fence?

A. Yes sir.

Q. After you warned him from the fence, what did he do then?

A. He started away then.

Q. Which direction did he go?

A. Well sir it looked like he started to go back to his quarters.

Q. Did you watch him?

A. No sir, I didn't.

Q. What was the next thing that happened?

A. Then I turned around and he was headed for the fence again.

Q. What fence?

A. The boundary line between Post number 8 and Post No. 9.

Q. What did you do then?

A. I warned him away again and he started away.

Q. Did you watch him?

A. No sir.

Q. Is the fence a considerable distance from where the residents stay?

A. The fence is quite a way from where they live.

Q. Then what was the next thing you heard?

A. Well sir I was facing towards No. 10 tower and then I heard a shot fired.

Q. Which direction did the shot come from?

A. From Post No. 8 sir.

Q. Could you tell what kind of a gun fired the shot?

A. Yes sir.

Q. What kind of a gun would you say it was?

A. It was an 03 sir.

Q. A what?

A. An 03 sir.

Q. Do you mean a 1903 model Springfield rifle?

A. Yes sir.

Q. Was that the kind of a rifle you were armed with?

A. Yes sir.

Q. Did you look toward Post No. 8 after you heard the shot?

A. Yes sir I did.

Q. What did you see, if anything.

A. I could see a little dog prancing around down there.

Q. Was that the same dog that was with the person loitering around your post a few minutes before?

A. Yes sir.

Q. Did you go over to Post No. 8?

A. No sir, I can't leave my post.

Q. You stayed on your post?

A. Yes sir, I did.

Q. Now did you have occasion to see a person later on that evening who had apparently been shot?

A. Yes sir.

Q. Did you recognize him?

A. Yes sir I recognized him at the dispensary.

Q. Just tell the Court in your own words what was the occasion of your going and observing the body who was apparently dead?

A. The Company Commander gave me orders to go down and see if I could recognize and identify him and I went over and then I reported back to him.

Q. The Company Commander gave you orders to go and observe the body?

A. Yes sir.

Q. And you did?

A. Yes sir.

Q. You saw him?

A. Yes sir.

Q. Did you recognize that person in the dispensary as the same person whom you had warned away from your post earlier in the evening?

A. Yes sir.

Q. About what time did you go to the dispensary.

A. Between 8 and 9 or about quarter to nine sir.

Q. On the same evening, April 11, 1943?

A. Yes sir.

Q. The same evening that you had heard the shot?

A. Yes sir.

Q. How did you recognize this man as being the same person you saw earlier in the evening?

A. By his size and dress and looks.

Q. Could you tell by the clothing that he was the same man?

A. Yes sir.

CROSS-EXAMINATION

Questions by defense:

DC: In your testimony you made the statement that when you first saw the person loitering around your post, he was 125 yards away from your station and you stated that he was going west towards the fence?

A. Yes sir, he was.

DC: Now this fence runs in what direction?

A. It runs south and north.

DC: Was Post No. 8 to the north or to the south of your post?

A. South sir.

DC: Post No. 8 was to the south. You are quite sure of that?

A. Yes sir.

DC: In any event, he was going towards the fence?

A. Yes sir.

DC: Had you ever seen that man near your post before?

A. Yes sir I have.

DC: Had you had occasions to require him to vacate that area before?

A. Yes sir.

DC: No further questions.

TJA: Any questions by the court?

President: What was the visibility at 7:30 p.m. on April 11, 1943? Was it light or dark?

A. Just breaking dark sir.

President: What was the nationality of the person whose body you viewed that evening?

A. Japanese sir.

TJA: Any further questions by the court?

Member of the Court: It has not been definitely brought out that this Japanese man was within the fence or not. Was he within the fence?

A. He was very near on the fence sir when I ordered him away.

President: On the inside?

A. Yes sir, on the inside

President: The witness is excused.

Defense Counsel: We request that the witness be retained for a defense witness.

TJA: We are keeping all the witnesses until the end of the trial.

Sergeant Floyd C. Johnson, 336th Military Police Escort Guard Company, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. Will you please state your name, grade and organization?

A. Floyd C. Johnson; sergeant, 336th Military Police Escort Guard Company, Delta, Utah.

Q. Is that the organization that is located at the War Relocation Authority Central Utah Relocation Center, Delta, Utah?

A. Yes sir.

Q. Do you know the accused, Private first class Gerald B. Philpott?

A. Yes sir I do.

Q. Do you know that he is in the military service of the United States?

A. Yes sir.

Q. Recalling the date of April 11, 1943, what was your assignment at that time?

A. I was sergeant of the guard sir.

Q. You were the sergeant of the guard for that period beginning at what time of the day?

A. 4:45 sir.

Q. Did you post the guards, particularly the guard on Post No. 8?

A. Not myself sir.

Q. Do you know that they were posted?

A. Yes sir.

Q. Do you know what guard was on Post No. 8; who was detailed for that evening?

A. Yes sir I do.

Q. Who was the guard?

A. Private Philpott sir.

Q. Do you know of your own knowledge that he entered upon the duties as sentry on that post?

A. Yes sir.

Q. Do you recall anything unusual happening in the area that evening?

A. Nothing except sir that I was informed of a shooting.

Q. What shooting?

A. Shooting of a Japanese resident.

Q. Where were you when you received word that some one had been shot?

A. I was just returning from the guard house making my rounds and turning on the lights.

Q. Upon being informed that something had happened, what did you do?

A. I went to get the officer of the day and the ambulance and medical officer and then I proceeded to the place where the Japanese was.

Q. Where was it?

A. Between tower 8 and 9.

Q. That was where the shooting occurred?

A. Yes sir.

Q. What did you find there when you arrived?

A. I found a Japanese man lying on the ground.

Q. Did you examine him?

A. No sir.

Q. How close did you come to the Japanese person that was on the ground?

A. Six or eight feet sir.

Q. Could you tell by looking at him that it was a person of Japanese nationality?

A. Yes sir you could.

Q. Had the body been moved?

A. No sir.

Q. How far from the fence do you suppose the body was?

A. Between 3 and 4 feet.

Q. What position was the body lying, on its face or on its back or just how?

A. On his back sir.

Q. Could you tell whether there were any wounds or not?

A. No sir you couldn't sir.

Q. Could you tell whether the person was dead or alive?

A. I could not tell sir.

Q. What did you do next?

A. I waited until the medical doctor came and he took over from there.

Q. Did you go to Tower No. 8?

A. Yes sir.

Q. Who was on guard when you went to the tower?

A. Private Philpott sir.

Q. Did you examine his rifle?

A. No sir.

TJA: You may cross-examine.

CROSS-EXAMINATION

Questions by defense:

Q. The defense counsel has no questions.

TJA: Any questions by the Court?

President: Did you hear any shooting before you left the guard house?

A. No sir.

TJA: Any further questions by the Court?

President: The witness is ~~examined~~.

Private Silas H. George, 336th Military Police Escort Guard Company, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name, grade and organization?

A. My name is Private Silas H. George, 336th Military Police Escort Guard Company.

Q. Is that at Delta, Utah?

A. Yes sir.

Q. Do you know the accused in this case?

A. Yes sir.

Q. Do you recall the evening of April 11, 1943, when a person was shot in the area of where your Company is guarding?

A. Yes sir.

Q. What time did you come on?

A. I went on Post at 5 sir.

Q. A.M.?

A. In the evening sir, P.M.

Q. What post did you take?

A. Post No. 8 sir.

Q. How long did you remain on duty?

A. Two hours sir.

Q. When were you relieved?

A. At 7 P.M. sir.

Q. And who relieved you at that post that evening?

A. Private Philpott sir.

Q. Did he come to the Post and relieve you before you left?

A. Yes sir.

Q. When he came to your post, what did you do?

A. I came down the ladder and he went up the ladder sir.

Q. What did you do with your gun?

A. I left it with Private Philpott when he relieved me sir.

Q. How many guns are in the tower?

A. One sir.

Q. Did you leave your gun in the tower?

A. I left the gun I had to Private Philpott who relieved me.

Q. Is that the way that it is usually done?

A. Yes sir it is.

Q. The guard then hands his gun to the person who relieves him, is that right?

A. Yes sir.

Q. Had the gun been fired recently?

A. No sir.

Q. Do you know whether the gun had been cleaned recently or not?

A. It had sir.

Q. Did you clean the gun yourself?

A. No sir.

Q. How many rounds of ammunition were left in the tower?

A. I left 10 rounds sir.

Q. How many rounds were in the gun?

A. Five rounds in the gun sir.

Q. Did you see Private Philpott climb up in the tower before you left?

A. Yes sir I did.

CROSS-EXAMINATION

Questions by defense:

DC: Is this man sitting here Private Philpott?

A. Yes sir.

DC: Do you always get the same rifle every time you go on guard duty?

A. No sir.

DC: As a guard, have you ever had the opportunity to take the rifle out, the one you had on this occasion, and fire it for record or zero it in?

A. No sir.

DC: No further questions.

TJA: Any questions by the Court?

Member of the Court: Did you hear any shooting that night?

A. No sir I didn't.

Corporal Milton G. Marks, 336th Military Police Escort Guard Company, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name, grade and organization to the Court?

A. Corporal Milton G. Marks, 336th Military Police Escort Guard Company, Delta, Utah, sir.

Q. Do you know the accused?

A. Yes sir.

Q. Private First Class Gerald B. Philpott.

A. Yes sir.

Q. Is he in the military service at this time?

A. Yes sir.

Q. Do you recall the day of April 11, 1943, at which time you were the desk corporal at the guard house?

A. Yes sir.

Q. You recall that occasion?

A. Yes sir I do.

Q. I will ask you if the accused brought in a gun and turned in the gun to the desk at that time?

A. Yes sir he did.

Q. What time did he come into the guard house?

A. Between 8 and 8:30 sir.

Q. Was he carrying the gun himself?

A. Yes sir.

Q. Did he deliver the gun to you personally?

A. Yes sir.

Q. Did you examine the gun?

A. Yes sir.

Q. What kind of a gun was it?

A. It was a Springfield 1903 model.

Q. Is that the kind of a rifle the guards are armed with out there?

A. Yes sir.

Q. Are the guns kept in the guard house when they are not being used?

A. Yes sir.

Q. What else was delivered to you besides the rifle?

A. Four live rounds of ammunition and one empty.

Q. One empty round was handed to you?

A. Yes sir.

Q. Did you examine the gun to see if it has been or had been recently fired?

A. No sir.

Q. Could you tell whether it had recently been fired or not?

A. I didn't look at it sir.

Q. Did you smell it to see if you could detect any odor??

A. No sir.

Q. You are not able then to say whether it had been fired or not?

A. No sir.

Q. Did you keep the rifle in your possession until you went off duty?

A. Yes sir, it was in the rack until I went off duty.

TJA: Cross-examination.

Defense Counsel: No questions.

TJA: Any questions by the Court.

Member of the Court: Did you post Private Philpott at his post at 7 o'clock.

A. No sir, the driver of the carrier did.

Member of the Court: The what?

A. The driver of the weapons carrier. I organized the relief but the driver of the weapons carrier posts them.

TJA: Any further questions by the Court?

President: The witness is excused.

President: The court will now take a 10 minute recess.

At the end of the recess the President of the Court called the court to order and all members of the Court were present with the exception of Major Frederick F. Ackerman, 0332290, Medical Corps, who was excused by the appointing authority, and the members of the prosecution and the members of the defense and accused were present, and the court reporter also took his place.

First Lieutenant Walter A. D'Alonzo, 336th Military Police Escort Guard Company, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. Will you please state your name, rank and organization to the Court?

A. My name, Lieutenant Walter A. D'Alonzo, Medical Corps, Delta, Utah.

Q. How long have you been on active duty Lieutenant?

A. Approximately eight months.

Q. Before coming on active duty, you were a legally licensed physician?

A. I was sir.

Q. In what State?

A. State of Pennsylvania.

Q. Are you at this time the medical officer for the 336th Military Police Escort Guard Company, at Delta, Utah?

A. I am sir.

Q. Did you have occasion to be called to the vicinity of Post No. 8 at the relocation center at Delta, Utah, on the evening of April 11, 1943?

A. Yes sir.

Q. What time did you get there?

A. I was called at about 7:30 p.m. I got there in about three or four minutes.

Q. Did you go to Post No. 8?

A. I went to the site where this dead Japanese was.

Q. Was that near Post No. 8?

A. Very near there, yes sir.

Q. Did you see the person that you went to examine lying on the ground?

A. Yes sir.

Q. Do you know whether he had been moved before you arrived?

A. I don't know but I don't believe he was.

Q. About how far from the fence was he when you got there?

A. About forty inches sir.

Q. Did you proceed to make an examination?

A. Just a cursory examination.

Q. And what did you find on the cursory examination?

A. I found a hole posteriorly, which means in the back, from the back to the front. At that time I didn't make a careful examination as I was interested in seeing if I could save his life.

Q. Was the person dead or alive?

A. He obviously looked dead but just by looking at a person you cannot tell actually whether he is dead or not.

Q. Did you order the body to be removed?

A. Yes sir.

Q. To what place?

A. To the Camp Dispensary.

Q. When the body arrived at the dispensary, did you make an examination?

A. I made a more thorough examination to determine whether there were any twitchings of the heart. There was absolutely no heart action and at that time I was definitely convinced he was dead.

Q. Will you tell the court the details of the wound you found upon your thorough examination of the body?

A. You want it in medical terms?

TJA: Any way you desire. Use medical terms if you wish.

A. On a thorough examination of the body I found anteriorly on the chest, the front part of the chest, a wound hole approximately one-half inch in diameter which was between the third and fourth ribs just to the left of the sternum, where the rib bones meet the chest bone. This was closer

to the third rib than the fourth but it was between the third and fourth ribs. Posteriorly, in the back, I found a larger opening, a hole which was at the level of the sixth thoracic vertebrae, just to the right of the vertebrae and it was approximately one or one and one-half inches in diameter. It also made a hole in the coat the individual was wearing. This hole posteriorly, back of the chest, had approximately from physical examination, or rather had cut the vertebrae and it made its exit on the right side of the vertebrae.

Q. From the examination of the wound Lieutenant, what is your opinion as to what caused the wound?

A. It looked as though it was a bullet wound.

Q. In your opinion, was the wound you found sufficient to produce death?

A. Yes sir.

Q. It is then your opinion that that was the cause of death?

A. Yes sir. I feel that the bullet pierced the heart and then severed the spinal cord which is a doubly good reason for death.

Q. Did you know the person you examined?

A. No sir.

Q. What race would you say he belonged to?

A. The Japanese Race sir.

Q. That was definite?

A. It looked definite.

Q. Did you examine the clothing?

A. Just to the extent that I took the clothing off or rather lifted it from the chest in order to better determine the wound and to examine it closer.

TJA: You may cross-examine.

CROSS-EXAMINATION

QUESTIONS BY DEFENSE:

Q. You have testified that the bullet entered the man's chest about the third or fourth rib and left the body in the vicinity of the spinal cord. Would that indicate to you that the bullet went through the body on an angle?

A. More than likely sir but also for the bullet to come out where it did it could have been deflected in some way.

Q. In order for this man to have been hit by a bullet in the position he was hit, would he not have been facing the fence?

A. Yes sir he would.

DC: No further questions.

TJA: Any questions by the Court?

President: What was the race of the deceased?

A. He was of the Japanese race sir.

President: Did you know him?

A. No sir.

President: Had you heard any shooting prior to this time?

A. No sir.

Member of the Court: You testified that this wound in the front was between the third and fourth ribs near the sternum. Which side was that on?

A. Left side.

Member of the Court: Do you feel that you can state which was probably the entrance and which was the exit?

A. I feel as though the entrance was anteriorly and posteriorly was the exit; that is the front and the back.

Law Member: Did you make out a death certificate?

A. I just signed the death certificate and stated what I believed caused the death.

Law Member: Do you remember the man's name?

A. I don't remember it now sir.

Law Member: Was it James H. Wakasa?

A. I believe it was. I remember the last name but I don't remember the first name.

TJA: When you examined the body, how long in your opinion had it been dead?

A. I couldn't state definitely. Rigor mortis hadn't set in as yet though.

TJA: That would indicate a matter of a few minutes then wouldn't it?

A. Not over a half an hour or an hour I would say.

Mr. Ralph C. Barnhart, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name, residence and occupation?

A. Ralph C. Barnhart, _____ I am project attorney for the War Relocation Authority Central Utah Relocation Center.

Q. Is that the place where there are a number of Japanese people interned?

A. It is.

Q. You call them residents do you not?

A. In Topaz we call them residents.

Q. Did you know a resident by the name of James H. Wakasa?

A. Yes, I knew him.

Q. How long had you known him?

A. I knew him almost from the beginning of the time he got there, about the first of the year.

Q. What was your occasion to talk to him or how did you become acquainted with him?

A. He came into my office a number of times to see me about several matters.

Q. What was his age? Approximately?

A. 63 years. I know the record.

Q. Could you tell that he belonged to the Japanese race?

A. Yes, he was Japanese but a little less Japanese in appearance than the average resident.

Q. Did you have occasion to examine the body on or about April 11, 1943?

A. I did.

Q. Did you make any examination?

A. I did.

Q. Did you recognize the body that you examined?

A. I did.

Q. Did you recognize the body to be a resident by the name of James H. Wakasa?

A. Yes. I examined the body on the evening of April 11, 1943, and I recognized it as James H. Wakasa.

TJA: Cross-examine.

Defense Counsel: No questions.

TJA: Any questions by the Court.

President: The witness is excused.

Mr. Lorne W. Bell, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. Will you state your name, residence and occupation?

A. My name is Lorne W. Bell,

Q. Your occupation?

A. I am assistant project director.

Q. You say Assistant Project Director. Is that with the Central Utah Relocation Center?

A. It is.

Q. You are a civilian employee of that place?

A. I am.

Q. Do you have with you Mr. Bell the records of the residents or do you keep in your files the personal records of the residents?

A. We do.

Q. And did you search through your records and find the record in respect to one James H. Wakasa.

A. I did.

Q. Do you have that record with you?

A. I have.

Q. Do you have a copy of it?

A. I do.

Q. Do you keep those records yourself? Are they in your possession in the Center?

A. Yes.

Q. That is part of your duties in keeping the record?

A. Yes.

Q. I wish you would refer to the record of this subject and tell us the form of the record?

A. The form is WRA 26.

Q. WRA means War Relocation Authority doesn't it?

A. Yes sir.

Q. What does the record show for the name?

A. James H. Wakasa. His full name is James Hatsuaki Wakasa.

Q. What does the record show for the birth date?

A. February 24, 1880.

Q. And occupation?

A. He has been occupied in various things. We have him classified as a cook.

Q. Did he have a number when he was brought to the Center?

A. His individual number is 33177A.

Q. And where was that number given to him? Is that a local number or was that given to him before he arrived at the Center.

A. It is a war relocation authority number.

Q. Probably given to him when he was evacuated from the Coast?

A. I think so.

Q. When did he first become a resident of the Center?

A. The 2nd of October, 1942.

Q. May I have a copy of that form that you are reading from?

A. Certainly.

Q. Mr. Bell, calling your attention to the instrument known as Form WRA 26, this record that you have just been reading from, I will ask you if that is a copy of the original record that you have at this time in your office at Delta, Utah?

A. Yes sir it is.

Q. You have compared them and you know it to be a true and correct copy?

A. Yes sir.

Q. The information that appears on this record is information that you caused to be placed there?

A. Yes sir.

Q. Where did you get this information that is on this form?

A. From the evacuee.

Q. From the evacuee himself?

A. Yes sir.

Q. We offer Exhibit "C" into evidence.

Law Member: Any objection on the part of the defense counsel?

Defense Counsel: No objection.

TJA: With permission of the Court we will not read the individual record for the reason that it contains certain data that the Court may examine themselves and we will pass it to the Court if they desire to read it.

Q. Mr. Bell, does your office handle the administration of the evacuees or the residents of the center with respect to everything in the way of feeding them and so forth?

A. Yes.

Q. You feed them?

A. Yes.

Q. You house them?

A. Yes.

Q. And control them?

A. Yes sir.

Q. Do you have them do certain jobs such as agricultural work and you supervise them?

A. Yes sir.

Q. Have you given them any instructions with respect to leaving the area, going into certain zones, particularly at night time?

A. Yes.

Q. How did you convey those instructions to the residents?

A. Through general announcements. During the first part of the year, we had a daily newspaper and we ran warning notices.

Q. What did those warning notices state?

A. They said to avoid the fence and to use the gates and to not climb over the fences.

Q. Did you ever give the residents any warnings that in the event that they attempted to climb through or over a fence if they were not authorized to do so that they might be shot?

A. I am not sure that it was worded exactly that way.

Q. You told them to avoid the fence?

A. Yes sir.

TJA: Cross-examine.

Defense Counsel: No questions.

TJA: Any questions by the court?

Member of the Court: Where was the birth place of this man?

A. Ishikawa Ken, Japan.

TJA: Does the record show that this person was educated in Japan?

A. Yes.

TJA: Had he ever attempted to become an American citizen?

A. The record does not show that.

Member of the Court: Is the paper you referred to printed in English and in Japanese?

A. Yes.

TJA: Any further questions by the Court?

President: The witness is excused.

Mr. Tsunei Baba, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

- Q. Will you state your name to the Court?
- A. My full name is Tsunei Chiro Baba but I am usually known as Tsune Baba.
- Q. And your residence?
- A. I am located at 3610 B, Topaz, Utah.
- Q. Is that the Central Utah Relocation Center?
- A. Yes sir.
- Q. You are a resident of that place?
- A. Yes sir, I am.
- Q. What is your nationality?
- A. I am an American of Japanese descent.
- Q. You are an American citizen?
- A. I am.
- Q. Of Japanese descent?
- A. Yes.
- Q. How long have you been at the Central Utah Relocation Center?
- A. I have been there since the end of September of last year.
- Q. Do you have any official designation at the Center?
- A. Yes, I am the chairman of the community council.
- Q. That is an organization composed of residents?
- A. Of American citizens, yes.
- Q. You have your own Government within the Center to a certain extent?
- A. Yes sir.
- Q. As such chairman of the community council just what are your duties?
- A. We represent the residents.
- Q. Were you acquainted with James H. Wakasa?
- A. Yes sir.
- Q. How long had you known him?
- A. From about November of last year.
- Q. Is that when he came to the Center?
- A. He came into the Center about the time I did.
- Q. What was his apparent age?

A. I know definitely that he is 63 years of age.

Q. Did you ever have occasions to talk with James H. Wakasa?

A. Yes sir.

Q. That is the reason you know him then?

A. Yes sir.

Q. Did he belong to your council?

A. No sir.

Q. Was he a citizen of Japan?

A. I believe he was.

Q. Do you know whether he ever applied for citizenship?

A. I don't believe he was able to be naturalized.

Q. Did you have an occasion to see him after he was dead?

A. Yes sir.

Q. Where did you see him after he was dead?

A. I saw him at the Military Police headquarters at the northeast corner of our Center, at the City of Topaz, Utah.

Q. Was he dead at that time?

A. He was.

Q. What day was that when you saw his body?

A. It must have been either early Monday morning or late Sunday night of the incident.

Q. It was then either on April 11th or the 12th, 1943?

A. Yes sir.

Q. You recognized him readily to be the person you knew as James H. Wakasa?

A. Yes sir.

TJA: You may cross-examine.

Defense Counsel: No cross-examination.

TJA: Any questions by the Court?

President: Were the residents fully advised of the regulations and of the restricted areas that they could not enter or should stay away from?

A. We have a publication published by the Administration called the "Topaz Times". In the Times from time to time we did have notifications inserted stating that at certain times I believe, residents should not go out beyond that fence; to always use the gate when a resident wanted to go out. That is about all I know of as far as I can recall.

TJA: Had you as Chairman of your Council ever been advised by the military

police or the civilian authorities that it would be dangerous for residents of the community or of the center to go about the fence in the night time or other times when they were not to leave the Camp?

A. I don't believe we have ever been advised by the military police but we probably have from the Administration.

TJA: Was it generally known that they were not to go about the fence at night time and that if they were to leave and had an authorized pass they could go through the gates?

A. That is the general understanding but I do not know whether the residents as a whole know of the regulations.

TJA: You know that it would be dangerous and you probably would know the results of going about a fence and particularly to go through a fence in the night time?

A. I believe you are correct.

TJA: But you do not know whether all of the residents know these regulations?

A. I don't know whether they do.

TJA ; Did you ever have any conversation along that line with James H. Wakasa?

A. No sir. All my talks with him have been about employment.

President: The residents knew that the fence was put there for a purpose and sentries with rifles placed along this fence, they knew that?

A. Yes, I believe they did.

TJA: Any further questions by the Court?

President: The witness is excused.

Mr. T. L. Nickle, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name, residence and occupation to the Court?

A. L. N. Nickle. I am a mortician, located at Delta, Utah.

Q. Did you have occasion to take care of the body of James H. Wakasa on or about the evening of April 11, 1943?

A. Yes sir I did.

Q. Did you remove the body to your establishment?

A. Yes sir.

Q. Did you make an examination of the body and strip him of his clothing?

A. I did, yes sir.

Q. Tell the Court the manner of clothing you found on the body?

A. Starting at the foundation, I found a heavy suit of underwear, a knitted,

I think it was a homemade knitted sweater. It was an armless sweater and he had both legs through the arm holes pulled up over his body like this (indicating). He had two pair of trousers on, they apparently were woolen trousers; a pair of cotton socks on the heavy order; a pair of oxford slippers; a woolen shirt, and a tan, brownish-tan, colored sweater and a mackinaw.

Q. Would you say that the body was dressed in a manner that would keep a person warm during the cold evenings?

A. Very much so.

Q. Did you make any examination of the clothing or find anything or personal articles on the body?

A. When I unstripped or rather undressed him I found a homemade money belt with \$65.00 in it. It wasn't a regular money belt, it was a homemade rag with this money (pulling money from his pocket) pinned to it. I didn't find any other personal effects. It was fixed on the clothing so that it would be terribly hard to find.

Q. Was the money in cash; that is, silver or currency?

A. I haven't found anyone that wants this money. It was in currency. Here it is.

Law Member: We are not interested in having the money.

Q. Did you examine the wound or wounds about the body?

A. Yes sir.

Q. Where was the wound you examined?

A. In layman's language, it was between the third and fourth ribs where they join on to the breast bone just to the left of the center. That is where the bullet entered.

Q. Did you know this person, James H. Wakasa before you saw his body that night?

A. No I didn't.

Q. All you know about the name was that you understood that it was the name?

A. The records that they gave me from the WRA were of that name.

Q. Did you have anything to do with the death certificate?

A. I had the WRA give me the information as to his name, alien registration number and where he was born and his age.

TJA: You may cross-examine.

CROSS-EXAMINATION

Defense Counsel: When did you pick up the body and take it to your establishment?

A. I was called between 10 and 11 o'clock at night and I proceeded to the area and they told me that the County officials were coming out so I parked my car along side the military ambulance and I stayed there until about 12 something before I started to leave. They didn't come and time was passing so I transferred the body and started on to town and I met the County officials coming out and they wanted me to turn around and come on back with them.

Law Member: We are not interested in all of that.

DC: That is sufficient. Now in undressing this man he had one sweater pulled up inside with his legs through the arms. In your experience of undressing bodies, would you say that that was an unusual way for a man to be wearing a sweater?

A. Yes sir.

DC: As you checked off that clothing off this man, would you say that he had more clothing than he needed to keep him warm?

A. Not knowing his physical condition it would be hard to say but I would say yes.

DC: Was it a particularly cold night?

A. I was out in a store suit and never caught a cold.

DC: It was fairly balmy?

A. Yes it was.

DC: And this money belt he had on his clothes, it was so placed as to hide the money wouldn't you say?

A. For safekeeping yes.

DC: It was so secretly hidden that when they made an original examination of the body, they missed it?

A. Yes sir.

DC: No further questions.

TJA: Any questions by the Court?

Defense Counsel: Just one moment please, I have another question. What was the color of his clothing that was worn by this man?

A. The mackinaw was what they issue to the evacuees out there, dark blue very similar to navy blue. His trousers, one pair was blue and the other brown.

DC: Was he wearing the brown pair underneath or the blue pair underneath. Do you recall the order they were?

A. I am not positive but I think the blue pair was underneath and the brown pair outside.

DC: That is a fairly dark color brown wasn't it?

A. They weren't too dark, along the color of medium brown.

DC: But as to compared to a light color or a dark color, they would be identified as dark, isn't that right?

A. Yes sir.

TJA: Any questions by the Court?

President: The witness is excused.

TJA: The prosecution rests.

Defense Counsel: If it please the Court, the defense would like to make a brief opening statement. But before making that statement however, the defense, if it pleases the Court, wishes to move under Paragraph 71d of the Courts-Martial Manual that a finding of not guilty be made by the Court on the grounds that the prosecution has failed to show that the accused willfully, feloniously, and unlawfully killed James H. Wakasa and that the entire case is based upon a presumption and a presumption should be taken in favor of the defense.

Law Member: It is the duty of the law member to rule upon that motion subject to any objection by any member of the Court. Due to the importance of this case Mr. President, I would suggest that the Court be closed until a ruling has been determined.

President: I move that the Court be closed and cleared.
(The court was closed)

President: The Court is opened.

Law Member: The Motion is denied due to the seriousness of this case. You may bring it up later.

President: The Court desires that Lieutenant Carson be recalled.

TJA: You are Second Lieutenant Harlin C. Carson?

A. That is right, sir.

TJA: You are reminded that you are under oath.

A. Yes sir.

TJA: You testified before in this case?

A. Yes sir.

Law Member: Did you have any conversation with the accused following the death of the victim with reference to the shooting?

A. I did sir.

Law Member: Did he make any statement with reference to the shooting?

A. Yes sir.

Law Member: Was he warned of his rights with reference to making a statement?

A. No sir.

Law Member: That is all.

President: The witness is excused.

Defense Counsel: If the Court please, the defense will make a brief opening statement before bringing our witnesses to the stand. It has been alleged and charged that the accused did willfully, unlawfully and feloniously kill a man. We will prove that this man was properly posted; that he was acting in authority when he fired the shot; that he fired the shot as a warning; that the man has no personal reason to want to kill this man; if you do not know the man, you certainly do not have anything against him. The shot was fired purely as a warning shot and the fact that it killed a man is an accident and a

coincident. We will further show that Wakasa was unauthorized in being at the fence at the time that he was. We will further show that this is not the only occasion upon which this man has been made to leave the fence which in view of the circumstances in this case and the climbing over a fence, the action taken in this case was justified.

Sergeant Floyd C. Johnson, 336th Military Police Escort Guard Company, called as a witness by the Defense.

DIRECT EXAMINATION

Questions by the Defense:

Q. TJA: Your name is Sergeant Floyd C. Johnson?

A. Yes sir.

TJA: You are the witness who testified heretofore today?

A. Yes sir.

TJA: You are reminded that you are still under oath.

A. Yes sir.

Defense Counsel: You have previously testified that you know the accused to have been posted on Post No. 8 on April 11, 1943, on or about 7 o'clock P.M.?

A. Yes sir.

Q. Were you in the vicinity of Post No. 8 on or about 7 o'clock?

A. What do you mean?

Q. Were you near the post? Did you have occasion to go by the Post?

A. Yes sir.

Q. What were you doing?

A. Turning on the lights sir.

Q. Then it was dark enough that it was necessary to turn the lights on?

A. It was getting dark but it wasn't that dark that the lights had to be turned on. It was just getting dark.

Q. The sun was setting?

A. Yes sir.

Q. At what time did you turn on those lights?

A. I left the guardhouse somewhere around 7 o'clock.

Q. About what time did you turn the lights on in the vicinity of Post No. 8?

A. Around 7:15 sir.

Q. As sergeant of the guard, have you authorized members of the guard to fire warning shots?

A. Yes sir.

Q. Of your own personal knowledge, has it been necessary for other guards to fire warning shots on their tour of guard duty?

A. Yes sir it has.

Q. Have there been occasions where evacuees have gotten away from the area by climbing over the fence?

TJA: The prosecution objects to that questions as it would open up a field that would not be proper to go into.

Law Member: Overruled.

A. Yes sir.

Q. We have here certified copies of the guard book which we believe are pertinent to our case in that they show the many occasions upon which shots have been fired by guards on duty and we would like to exhibit them and do you wish to have every one labeled individually or may they be examined en masse as one exhibit?

Law Member: Mark as one exhibit for identification purposes.

Q. Will you identify these documents that have been marked as Exhibit "D" containing 8 parts?

A. Yes sir, I know them.

Q. Those are true copies of the guard book?

A. Yes sir.

Q. And as sergeant of the guard, you are familiar as to what goes into the guard book?

A. Yes sir.

DC: We request that these copies of the guard book be offered in evidence as Exhibit "D".

TJA: It will be stipulated and agreed on behalf of the prosecution that Exhibit "D" in eight parts, each part being an extract copy from the guard book of the 336th Military Police Escort Guard Company, may be entered as evidence, further identification waived.

Law Member: Received in evidence.

DC: You are familiar with the weapons with which this guard is armed?

A. Yes sir.

Q. Does each individual guard have his own weapon, one which is assigned to him when he reports for guard duty?

A. Not rifles sir.

Q. By what means does a guard secure a rifle by which he does his tour of guard?

A. He takes the rifle from the guard on the Post before him, the one he relieves.

Q. It may or may not be a rifle which he has had in his hands before?

A. That is right.

DC: You may cross-examine.

TJA: The prosecution has no questions.

TJA: Any questions by the Court?

Member of the Court: Is Post No. 8 a fixed post?

A. Yes sir.

Member of the Court: How far was it from the Post to the place where the Japanese was found?

A. A rough estimate, I would say about 250 yards sir.

TJA: Any further questions by the Court?

President: The witness is excused.

Private Silas H. George, 336th Military Police Escort Guard Company, a witness for the defense, testified as follows:

DIRECT EXAMINATION

TJA: Your name is Private Silas H. George?

A. Yes sir.

TJA: You testified in this case heretofore today?

A. Yes sir.

TJA: You are reminded that you are under oath.

A. Yes sir.

Questions by the Defense:

Q. Private George, you have previously testified that on April 11, 1943, you were posted as guard on Post No. 8.

A. Yes sir.

Q. By whom were you relieved as guard?

A. Private Philpott sir.

Q. Did Private Philpott bring a rifle with him to that post?

A. No sir.

Q. What rifle did he use?

A. He used the rifle what was already on guard.

Q. He used the rifle that you had then?

A. Yes sir, he used the rifle that I had.

Q. You gave him your rifle?

A. Yes sir.

Q. Do you always have that same rifle?

A. No sir.

DC: No further questions. Cross-examine.

TJA: The prosecution has no questions.

TJA: Any questions by the Court?

President: Has Private Philpott been on guard as a sentry before?

A. Yes sir, he has been on before.

TJA: Any further questions by the Court?

President: The witness is excused.

Private Frank R. Baughman, 336th Military Police Escort Guard Company, a witness for the defense, testified as follows.

DIRECT EXAMINATION

TJA: You are Private Frank R. Baughman?

A. Yes sir.

TJA: You are a witness who has been called before on this case heretofore today?

A. Yes sir.

TJA: You are reminded that you are still under oath.

A. Yes sir.

Questions by Defense:

Q. Private Baughman, you have previously testified before this Court that you were posted as a sentry on Post No. 9 on or about 7 o'clock on April 11, 1943, is that correct?

A. Yes sir.

Q. What did you see while on guard at this Post No. 9?

A. I saw a Japanese near by post, near the fence, and I chased him away.

Q. Had you ever seen this man before?

A. Yes sir.

Q. Had you seen him once or several times?

A. Several times sir.

Q. Then on several occasions it was necessary that you order this person away or shun this man back from the fence?

A. Yes sir.

- Q. You formerly testified that the first time you challenged this man, he was 125 yards, an estimate, from your Post?
- A. I would estimate it about that much.
- Q. When you challenged him, what did he do?
- A. He moved away and turned and it looked like he was heading for his quarters.
- Q. When was the next time you saw him?
- A. About 25 yards more away from where I ordered him away, he was almost on the fence.
- Q. Nearer the fence and farther away from you, is that correct?
- A. Yes sir.
- Q. By going away from you was he getting into a better light or a poorer light?
- A. He got away from my lights.
- Q. He then walked out of the range of your lights on your Post?
- A. Yes sir.
- Q. When did you see him again?
- A. Laying over in the dispensary.
- Q. But the last time you saw the man walking, was he walking in the direction of Post No. 8?
- A. The last time I saw him walking, he was walking towards his quarters sir.
- Q. But he came up to the fence and you dispatched him away and he came up again and you shunned him away, is that correct?
- A. Yes sir.
- Q. How was he dressed?
- A. He had on black or blue pants and a brown coat and a striped shirt.
- Q. His dress was dark, is that correct?
- A. Yes sir.
- Q. Dressed as he was, were he to get beyond the range of these lights, it would be difficult to observe his actions, is that correct?
- A. Yes sir.
- Q. Have you been given orders to fire warning shots?
- A. Yes sir.
- Q. Of your own personal knowledge, have other guards on this same post fired warning shots?
- A. Several times, yes sir.

Q. At the time you last saw this man and challenged him away from the fence was the light good or bad?

A. It was just breaking dark sir.

Q. Was it getting difficult to see or was it easy to see?

A. Getting difficult to see sir.

DC: No further questions.

TJA: The prosecution has no questions.

TJA: Any questions by the Court?

President: The witness is excused.

Defense Counsel: It is the intention of the defense to place the accused on the stand. He has been advised of his rights. Does the Court desire to further advise him of his rights in this matter?

Law Member: If the defense has fully advised the accused of his rights, it is not necessary for the Court to do so.

Defense Counsel: It has been done.

TJA: The accused may take the stand and make a sworn statement of which he may be cross-examined. He may remain silent if he so desires. He may make an unsworn statement, either orally or a written statement or he may make a statement through counsel. Has he been advised of all that?

DC: He has.

TJA: He has elected to take the stand and make a sworn statement?

DC: That is right sir.

Private first class Gerald B. Philpott, 336th Military Police Escort Guard Company, a witness for the defense, was sworn and testified as follows:

DIRECT EXAMINATION

TJA: State your name, grade, organization, and station?

A. Private first class Gerald B. Philpott, 336th Military Police Escort Guard Company, Delta, Utah.

TJA: You are a member of the Central Utah Relocation Center; that is, a guard at the Central Utah Relocation Center?

A. Yes sir.

TJA: You are a member of the military service?

A. Yes sir.

TJA: You are the accused in this case?

A. Yes sir.

Questions by defense:

- Q. Private Philpott, were you on guard the day of April 11, 1943?
- A. Yes sir.
- Q. At Topaz, Utah?
- A. Yes sir.
- Q. At what post were you posted?
- A. Post No. 8 sir.
- Q. When you were posted on that station, did you bring your own rifle with you?
- A. I did not.
- Q. How did you secure the weapon by which you were to man that post?
- A. I got it from the sentry I relieved sir.
- Q. It was a weapon which you were unfamiliar with?
- A. That is right sir.
- Q. You might or might not have had it in your hands before?
- A. That is right.
- Q. Did you ever have an opportunity at any time to fire that gun before going on guard duty?
- A. No sir, I did not.
- Q. After you were posted at Post No. 8, did you see anyone near or about your Post?
- A. About 7:20 I saw a Japanese man about 250 yards from my sentry tower.
- Q. How was he dressed?
- A. I couldn't tell from that distance.
- Q. Was it light clothing or dark clothing?
- A. I would say dark clothing.
- Q. What was the condition of the light? Was it easy or difficult to see?
- A. It was kind of difficult to see.
- Q. Had you ever seen this man before?
- A. No sir.
- Q. Did you know this man?
- A. No sir.
- Q. Did you ever have occasion to be engaged in battle against a Japanese force?

A. No sir.

Q. Has any member of your family or friends ever been wounded or killed by any member of the Japanese army?

A. No sir.

Q. Then the first and only knowledge of this man you ever had was when you saw him in the vicinity of your post?

A. Yes sir.

Q. What did you do when you first saw this man?

A. He was about 250 yards away from my post and I hollered "halt" three times from about 15 to 20 seconds waiting period between each halt and challenge. He saw me and he was looking straight at me and then I attempted to halt him the fourth time and he turned to climb over the fence. He was about one foot away from the fence when I fired a warning shot and it hit him and he fell.

Q. What position did you fire that gun that you were armed with?

A. I just brought it underneath my arm and pulled the trigger.

Q. You did or did not aim the shot?

A. I did not aim the shot sir.

Q. What did you do then?

A. I called the guard house and reported it sir.

Defense Counsel: No further questions.

CROSS-EXAMINATION

TJA: Had you ever had any training in target shooting before this time?

A. Yes sir I had but not at this relocation center.

Q. Had you ever fired a 30 caliber Springfield rifle before?

A. Yes sir.

Q. You did not bring the rifle to your shoulder when you fired it did you?

A. No sir.

Q. You didn't look down the barrel of the rifle then when you shot?

A. No sir.

Q. You made a careless shot then didn't you? You just pulled the trigger and shot?

A. That is right sir.

Q. Would you say that it would be an accident to hit a person firing in that manner.

A. Yes sir it would be.

Q. Isn't it more or less dangerous to fire a rifle even though you would not intend to hit any body?

A. Not at that place sir.

Q. Wasn't there a possibility of your hitting someone else?

A. Not hardly sir.

Q. What was the background that the bullet would strike?

A. It is an open field.

Q. Were there any mountains or houses in the background?

A. A mountain sir.

Q. I understand your testimony then that you did not intend to shoot and hit the Japanese person you shot?

A. That is right sir.

Q. Was he coming towards you, parallel with the fence?

A. Yes sir.

Q. And then he turned to go over the fence?

A. Yes sir.

Q. What direction did he turn?

A. Right sir.

Q. You are sure about that?

A. Yes sir.

Q. That is when you fired?

A. Yes sir.

Q. If you had known or had reason to believe that you might hit him, would you have fired the shot in the way that you did or would you have aimed so as to miss the Japanese person? Do you know what I mean?

A. No sir.

Defense Counsel: I object to that questions as it calls for a conclusion from the witness.

Law Member: Objection sustained.

Q. If you had been sure you would have missed him by firing an aimed shot, would you have done so rather than in the manner you did?

A. Yes sir.

Q. Had you ever had occasion to warn this person away from the post before?

A. No sir.

Q. Had you been on Post No. 8 before?

A. No sir.

Q. Have you been on any other posts prior to this time?

A. Yes sir. Post No. 1 and Posts No. 4 and 5.

Q. Are they similar to Post No. 8?

A. Yes sir.

Q. Is there a tower on each of the Posts?

A. Yes sir.

Q. You were familiar then with the duties of a guard in a tower?

A. Yes sir.

Q. Had you been given instructions that you were justified to use whatever force you thought necessary to prevent a person from going through the fence, even to include shooting him with a gun with which you were armed?

Defense Counsel: I object to that question.

Law Member: Overruled.

TJA: You may answer the question.

A. We were given order to use any force necessary.

TJA: No further questions.

TJA: Any questions by the Court?

President: The witness is excused.

Defense Counsel: The defense would like to have Sergeant James B. Hoyle, first sergeant, called as a witness. This man being called to the stand to testify is to testify as an expert witness.

Sergeant James B. Hoyle, S.C.U. 1902, Fort Douglas, Utah, a witness for the defense, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by the Defense:

TJA: State your name, grade, organization and station?

A. James B. Hoyle, first sergeant, S.C.U. 1902, Fort Douglas, Utah.

Defense:

Q. Sergeant Hoyle, how long have you been in the army?

A. Twenty five years sir.

Q. During your tour in the army, have you done considerable firing?

A. I have sir.

Q. Has it been your opportunity to qualify as an expert on one or more occasions?

A. Yes sir.

Q. In the course of your army experience, have you had considerable experience on the range?

A. I have had, yes sir.

Q. Have you ever coached a firing team or instructed men on firing?

A. I have sir. I have coached teams and I have been on a team.

Q. These men you coached, they were all expert rifle men?

A. Yes sir.

Q. Then I would like to put this problem to you for your opinion as professional testimony.

Considering a situation in which a man armed with a rifle with which he is unfamiliar, has never had an opportunity to zero, standing on a platform fifteen feet above the ground, firing at a range of approximately 250 yards, at sun down, at a small man dressed in dark clothing, the situation being of that nature, what would you say the probability would be of a man firing a fatal shot, firing in an offhand manner, the rifle having not been placed to the shoulder?

A. That would be more of a coincident to hit a man.

TJA: I didn't understand your answer.

A. It would be a coincident.

TJA: Any questions by the Court?

President: The witness is excused.

Defense Counsel: The defense rests.

TJA: Does the Court desire to have any of the witnesses recalled.

President: No.

TJA: The prosecution will not make any argument.

Defense Counsel: The witnesses which have just testified have definitely shown that there is no motive for the accused to have killed the man. He did not know the man; in fact he did not have personal reason for having animosity even against persons of the race of the deceased. The man was armed with a rifle with which he was unfamiliar. The testimony of an expert bears out the fact that to have fired a shot alleged to have been fired, and to have been fatal in the circumstances under which it was fired, was purely coincidental and accidental. You have all seen the accused. He is a man of good character, a good soldier, has good records; his experience in the army has been of the best. In view of these findings, in view of the evidence that has been presented in his defense, we request a finding of not guilty.

TJA: The prosecution has no closing argument and the prosecution has nothing further to offer.

FINDINGS

Neither the prosecution nor the defense having anything further to offer, the court was closed and voted in the manner prescribed in Articles of War 31 and 43. Upon secret written ballot, two-thirds of the members present at the time the vote was taken concurring in each finding of guilty, the court finds the accused:

Of the Specification: NOT GUILTY

Of the Charge: NOT GUILTY

The Court was opened and the President announced:

"The conduct of the accused in the performance of his duties having been in accordance with the best traditions of a soldier in the United States Army, he is, therefore, FULLY AND HONORABLY ACQUITTED."

PREVIOUS CONVICTIONS, Etc.

The court was opened and the trial judge advocate stated, in the presence of the accused and his counsel, that he had _____ evidence of previous convictions, which is attached as Exhibit _____.
(No or some)
(Cross out if inappropriate)

The trial judge advocate read the data as to age, pay, service, and data as to restraint of accused as shown on the charge sheet as follows:

Age _____ Pay, \$ _____ per month. Allotments to
(Base pay plus pay for length of service)
dependents, \$ _____ per month.

Government insurance deduction, \$ _____ per month.

Data as to service: _____

Data as to restraint of accused: _____

Record of trial GCM.
See appendix 6, MCM.

16-42903-1

SENTENCE

The court was closed, and upon secret written ballot _____ of the
members present at the time the vote was taken concurring, sentences the accused to *SCM*

The court was opened and the president _____ the
findings and sentence. *SCM*

The court then, at 11:35 o'clock, A. M., April 28, 19 43,
adjourned.

AUTHENTICATION OF RECORD

James M. Graham
JAMES M. GRAHAM,
Colonel, Infantry.

President.

Carmon C. Harris

CARMON C. HARRIS,
Major, J. A. G. D.

Trial Judge Advocate.

I examined the record before it was authenticated.

Paul C. Grow

PAUL C. GROW,
Major, Infantry.

Defense Counsel.

HEADQUARTERS NINTH SERVICE COMMAND

FORT DOUGLAS, UTAH

In the case of Private first class Gerald B. Philpott, tried at Fort Douglas, Utah, on April 28, 1943, pursuant to Paragraph 28, Special Orders No. 115, Headquarters Ninth Service Command, dated April 26, 1943, at the conclusion thereof, the President announced:

"The conduct of the accused in the performance of his duties having been in accordance with the best traditions of a soldier in the United States Army, he is, therefore, FULLY AND HONORABLY ACQUITTED."

336TH MILITARY POLICE ESCORT GUARD COMPANY
DELTA, UTAH

September 11, 1942.

SPECIAL GUARD ORDERS FOR ALL POSTS

1. No Japanese person will be allowed to enter or leave the area except when accompanied by a member of the staff of War Relocation Authority. If a Japanese person attempts to leave the area it is the duty of the Military Police to cause his arrest and to use whatever force is necessary, to do so.
2. All persons bearing badges either blue, red or white bearing the words "U.S. Engineers, Abraham Relocation Center" and a number will be allowed to enter or leave the area upon display of such a badge. The sentry should determine that all persons in any car have badges.
3. Any person seeking employment with the Construction Company, will be passed from one sentry to the next and will be directed to the Employment Office.
4. Persons bearing a written pass signed by an official of War Relocation Center, will be permitted to enter, upon presentation of their pass and will be permitted to leave the area only upon presentation of their pass properly validated by an official of War Relocation Center, within the area.
5. The roads leading from Post #1 and 3, and from Post #5 to 1, are used by civilians residing in the country beyond the Reservation. Cars whose drivers state that their destination is beyond the Reservation, will be passed upon their own statement provided no Japanese is in the vehicle. The drivers should be warned not to enter the Reservation on route, but to drive directly by and to have conversation with no one.
6. Post #1 and 5 will restrict the movement of Military Personnel and will not permit any member of this Command to leave the Post without a properly signed pass or work order.
7. All officers of the U.S. Army will be passed by all sentries at all times.

DONALD H. NAIL
1st Lt., C.M.P.
Commanding

*Exhibit
"B"*

HEADQUARTERS
336th MILITARY POLICE ESCORT GUARD COMPANY
CENTRAL UTAH RELOCATION CENTER
DELTA, UTAH

January 12, 1943.

EXTRACT FROM SPECIAL GUARD ORDERS # 2

POST # 8

1. One man armed with rifle at night and shotgun during the day.
2. During daytime, sentry will permit passage and return of Japanese residents when properly identified.
3. Will permit passage of War Relocation Authority Employees.
4. Will prohibit any other traffic. Employees of Contractors and U. S. Engineers will not be permitted to use this gate.

DONALD R. NAIL
1st Lieut., C.M.P.,
Commanding.

INDIVIDUAL RECORD

1. Name: Last First Middle WAKASA HATSUAKI			OFFICE USE	14. Individual number: 33177 A	OFFICE USE
1a. Other names: (Include maiden name if a married woman) JAMES				15. Family number: 33177	
2. Relocation Center: Central Utah	Address 36-7-D	Entry date 10-2-42		16. Sex: ☒ Male ☐ Female	
3. Assembly Center: Tanforan	Address 159-9	Entry date 5-20-42		17. Race: ☐ White ☒ Japanese ☐ Other Spouse's race: ☐ White ☐ Japanese ☐ Other	
4. Previous address: Street and number, or R.F.D. number City State				18. Marital status: ☒ Single ☐ Married ☐ Widowed ☐ Divorced ☐ Separated	
5. Parents: Name of father; maiden name of mother Country of birth Father N.A. (Dec.) Japan Mother N.A. (Dec.) Japan				19. Relationship to head of family group: Head	
5a. Father's occupation: in U. S. Abroad N.A.				20. Birthdate: 2-24-1880	20a. Age: 62
6. Person to notify in case of emergency: (Relationship, name, and address) None here or abroad.				21. Birthplace: (City, county, state or province, and country) Ishikawa Ken Japan	
7. Education: Name and location From To See # 31 Grammar school Takahama, Ishikawa Ken, 1886 1894 Junior high school Japan 1894 1898 High school Kogyokusha, Tokyo, Japan 1898 1900 Business school College Keio College, Tokyo, Japan 1898 1900 Postgraduate University Wisconsin, Madison Wis. 1914 1916 Hyde Park H.S. Chicago, Ill. 1909 1911				22. Alien registration number: 1105494	
7a. Degrees, educational specializations, honors, and significant activities: Keio College (Major-Economics, Commerce.) Minor-History, Language. Hyde Park H.S. Commerce U. of Wis. (Summer School)				23. Attending school: ☐ Yes ☒ No	
8. Residence outside the United States: Country From To Japan 1880 1903				24. Grade: College 2	
9. Military or naval service: Country Branch From To U.S. Camp Dodge, Des Moines 1917 1918 IOWA Civilian Instructor of cooking.				25. Language: Speak Read Write English ☒ ☒ ☒ Japanese ☒ ☒ ☒ German ☐ ☐ ☐ Italian ☐ ☐ ☐	
10. Public assistance: None ☐ Aid to dependent children ☐ Aid to blind ☐ Old age assistance				26. Major activity or status:	
11. Pension: None Source Amt. \$ Pay period				27. Occupation: Pri Chef 2-26 Sec Salesman 1-57	
12. Height: (Inches) 64	12a. Weight: (Pounds) 150	13. Physical condition: Good. No major defects.		27a. 27b.	

28. Employment history: (List most recent employment first and account for all periods of unemployment)			OFFICE USE	
From—	To—	Employer, Business, Address	Position and Duties	Pay
10-42	11-42	Central Utah W.R.A.	Fire Dept. Inspector.	\$ 16.mo.
1-42	5-42	Various Employers S.F. California	Worked as Banquet chef (Extra)	
10-41	12-41	Tanforan Club-Harry Cutland Co; Caterer-San Bruno, Calif	Banquet Chef.	\$ 9. ⁰⁰ da.
7-41	9-41	Blue Lagoon -Cafe S.F. Calif.	Extra Chef.	\$ 11. ⁰⁰ da.
2-41	6-41	Athletic Club Los Angeles, Calif.	Dinner Cook.	\$ 40. ⁰⁰ wk.
1938	1940	Various locations in Long Beach, San Diego, Calif.	Arts Goods Store Sales-clerk, mutual Insurance Co. Agent,	
1903	1938	Various Employers-Businesses in) Chicago, New York, St. Louis, Kansas City, Detroit Etc. in- cluding Railways (Dining Cars, Commissaries, Etc.) Chicago exhibition, U.S. Navy.	Chef. Ets. Store Sales clerk, chef Etc. worked as chef for U.S. Navy Medical Hospital Great Lake Naval Station, N. Chicago, Ill. (1912) also super-visor chef. teacher cook- ing, meat dressing, inspector of kitchen and D. rooms.	
29. Skills and hobbies: (List skills other than those indicated in the above employment history. Include types of ability or experience such as carpentry, electrical work, auto and machine repair work, music, arts and crafts, etc.)				
Hobby : Traveling.				
O.P. Chef, Steward, Commissary supervisor, cooking teacher.				
29a. Social Security Account No. 345-01-7034				
30. Religion. None (Christian if any)				
31. Additional information: (Enter here additional information on any item for which adequate space is not provided. Indicate in the margin next to the item that it is continued here, and number each entry here according to the item number)				
7 a. Member-Hotel and Restaurant employers international alliance (AFL) Local 44 San Francisco, California.				

Informant, if other than the registrant: _____ Date of interview: 11-11, 1942 Signature of interviewer: (signed) Sadao J. Oki

REMARKS

RY OF PRISONERS

No. JOINED OVER	LOSS	GAIN	No. JOINED OVER
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TRUE COPY REPORT FOR DECEMBER 8, 1942
Pvt Smith Post #9 fired one (1) round rifle Cal. .30 at Japanese who failed to halt after repeated warnings.

APPROVED:

EDWARD E. CLARK,

1st Lieut., F.A.,
Director, Personnel Division.

IN HOSPITAL

/s/ Harlin C. Carson

/s/ Sgt. Mack

COMMANDING GUARD

2nd Lt., C.M.P.

OFFICER OF THE DAY

Form No. 11
1941

(EXTRA SHEETS FOR GUARD REPORTS)

REMARKS

INJERIS

Loss	No. Turned Over

TRUE COPY REPORT FOR DECEMBER 22, 1942

On Towers No. 4, 5, 9, and 10, Flood Light bulbs has been broken. Reported by Sentries. All have been replaced. Cpl. Wharton fired 1 rd. of 4.5 cal. at a Japanese crawling under the fence.

APPROVED: *W. E. Clark*
Edward E. Clark

EDWARD E. CLARK,

1st Lieut., F.A.,
 Director, Personnel Division.

COMMANDING GUARD

OFFICER OF THE DAY

(EXTRA SHEETS FOR GUARD REPORTS)

GPO 16-2354

REMARKS

TRUE COPY REPORT OF DECEMBER 24, 1942.
Pvt. Beam Relieved on 24-1942. By order of Lt. Nail. Pvt.
Hammonds. Fire done round of cal. .30 Arm. on Post No. 9
at JAP who failed to halt.

[illegible]

~~APPROVED~~

APPROVED: *James E. Clark*
EDWARD F. CLARK,
1st Lieut., F.A.,
Director, Personnel Division.

18/ Sgt. Marks.

COMMANDING GUARD

18/ Lt. D. R. Na17.

OFFICER OF THE DAY

MEMORANDUM SHEETS FOR GUARD REPORTS)

NO CIVILIAN CASES

REMARKS

TA CATHYON GRAVE

F PRISONERS

NAME	LESS	NO. TURNED OVER	REMARKS	DATE	INITIALS
TRUE COPY REPORT OF DECEMBER 28, 1942.					
5 JAPS PICKED UP FOR SPEEDING IN FRONT OF POST #1. TURNED OVER TO LORNE HELL DECEMBER 28, 1942 AT 9:30 P.M.					
PVT. GUTHRIE TRIED BY SUMMARY COURTS DEC. 29, 1942 AT 2:00 P.M. SENTENCED TO 21 DAYS CONFINEMENT AND TO FORFEIT \$30.00 OF PAY FOR ONE MONTH.					
ONE .45 CAL. SHELL FIRED BY CPL. JACOBS AT JAPS THAT FAILED TO STOP WHEN HE HALTED THEM.					
Approved: <i>True Edward</i>					
EDWARD E. CLARK,					
1st Lieut., F.A.,					
Director, Personnel Division.					

/s/ Sgt. Johnson
COMMANDING GUARD

/s/ Harlin C. Carson
2nd Lt., C.M.P.
OFFICER OF THE DAY

No. 11

(EXTRASHEETS FOR GUARD REPORTS)

FORM 10-22-44

REMARKS

Pvt. JONES, J. FIRED A SHOE AT A JAP ON POST 6 AT 4:45 P.M.
12-30-42 A. 30 CAL. AMM.

APPROVED: *Wm. H. Howard*
Edward E. Clark

EDWARD E. CLARK,

1st Lieut., F. A.

~~Director, Personnel Division.~~

/s/ Sgt. Marks,
COMMANDING GUARD

OFFICER OF THE DAY

(EXTRA SHEETS FOR GUARD REPORTS)

GPO 16-21253-4

Page No. 111

OF PRISONERS			REMARKS
GAIN	LOSS	No. TURNED OVER	
			TRUE COPY REPORT OF FEBRUARY 28, 1943.
			PVT. CONRAD FIRED ONE RD. OF .00 BUCK AT A JAP WHO STARTED OVER THE FENCE BETWEEN TOWERS 4 & 5.
			PVT. ROBINSON E. RELIEVED FROM GUARD AT 8:35 P.M. FOR BEING DRUNK
			PVT. CAUTION TOOK HIS PLACE.
			SGT. JOHNSON RELIEVED FROM GUARD BY SGT. DICK AT 10:00 A.M. MARCH 1, 1943. PVT. ROBINSON E. RELEASED FROM GUARD HOUSE AT 10:40 A.M.
			3-1-43 BY ORDER OF C.O. GATE ON POST #11 SLIGHTLY BENT BY STEAM SHOVEL ENTERING MR. HUNTER WAS PRESENT AND W.R.A. WILL FIX IT.
			TOSHIO RAY KANZAWA LICENSE NO 12056 TRUCK NO. 12 SPEEDING BETWEEN 45 & 50.
HOSPITAL			Approved: <i>Edward E. Clark</i>
			EDWARD E. CLARK, 1st Lieut., F. A., Director, Pers. Div. COMMANDING GUARD
			/s/ Sgt. Johnson.
			/s/ Harold W. Lingo 2nd Lt., C.M.P. OFFICER OF THE DAY
No. 11			

(EXTRA SHEETS FOR GUARD REPORTS)

REMARKS

PRISONERS		
GAIN	LOSS	NO. TURNED OVER
TOTAL		

TRUE COPY REPORT OF JANUARY 24, 1943.
FLOOD LIGHT BETWEEN TOWERS 4 & 5 AND 5 & 6 IS BURNED OUT.
TOWER #7 HAS SHORT INSIDE AND OUTSIDE LIGHTS BURNED OUT.
TWO ROUNDS FIRED BY CPL. KLUNZ AT TWO JAPS WHO FAILED TO STOP.

*True Extract
Edward H. Clark / H. F.*

/s/ Sgt. Johnson
COMMANDING GUARD

/s/ Harold W. Leese
2nd Lt., C.M.P.
OFFICER OF THE DAY

REMARKS

[illegible]

REMARKS

SUMMARY OF PRISONERS					REMARKS
CLASS	No. RECEIVED	GAIN	LOSS	No. TURNED OVER	
GENERAL PRISONERS					TRUE COPY REPORT OF MARCH 10, 1943. ONE RD. OF 30 CAL. AMM. FIRED AT JAPANESE ON POST NO. 9 BY GOODALE 10:45 P.M. <u>TRUE EXTRACT:</u> <i>Edward E. Clark</i> EDWARD E. CLARK, 1st Lieut., F.A., Director, Personnel Division.
GARRISON PRISONERS					
PRISONERS NOT SENTENCED					
TOTAL,					
IN HOSPITAL					
GENERAL PRISONERS, No.					
OTHER PRISONERS, No.					

/s/ Sgt. Andrew Sabo Jr.
COMMANDING GUARD

/s/ Henry H. OMERN
Lt. C.M.P. 326-1
Co.

W. D., A. G. O. Form No. 11
July 1, 1941

(EXTRA SHEETS FOR GUARD REPORTS)