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Ser 6306F21

22 Oct 1952

Dear Mr. McKay:

The results of the investigation into the alleged maltreatment of Luis D. Misa on Saipan requested by your letter of 19 July 1956 are provided by the enclosure. Also the information for use in replying to the Philippine Ambassador's assertions regarding this incident, requested in your letter of 16 August 1956, has been provided by the appropriate Pacific Commander.

The Ambassador's assertions are commented on as follows:

Assertion: That Misa should be given a chance to cross-examine witnesses against him.

Comment: During the investigation Mr. Yango, the Philippine Vice Consul on Guam, requested that he be permitted to cross-examine witnesses on behalf of Mr. Misa. Inasmuch as Mr. Misa was a complaining witness and neither a party to the investigation nor on trial for the criminal acts he committed, the request was denied. However, Mr. Misa was permitted to testify at length, nominate witnesses that were called and interrogated and to introduce other evidence to support his allegations.

Assertion: The infraction committed by Misa did not warrant the drastic action taken against him.

Comment: The local Naval Commander does not consider that any drastic action was taken against Misa. The investigation determined that Misa's injuries were attended by the following circumstances: Misa had several opportunities to ride back to camp after 1900 on the 28th of April 1956; being somewhat intoxicated Misa was involved in an altercation with a civilian, Mr. Karl P. Schwantes; Misa was then arrested by the Insular Constabulary and, on being incarcerated, did resist the law enforcement officer to his utmost; these actions are criminal violations of the Trust Territory Code, however, no charges were pressed against Misa and he was released to the contractor in accordance with normal procedure; the contractor, finding Misa in violation of the terms of the contract, repatriated Misa to the Philippines through Guam; the injury to Misa's eye happened while he was locked in his cell and during a period when he was agitated, destructive, truculent and striking out at objects; there was insufficient evidence developed through presentation or questioning

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to confirm the alleged maltreatment by Mr. Vincente Guerrero, hence, the investigating officer found "That Misa did suffer injuries to his left eye by objects and/or means unknown while locked in a cell in the Saipan jail." Misa's sworn statement made to the Philippine Consul on Guam was found to be misleading by its incompleteness. Mr. Misa denied resisting the officers, assaulting Mr. Schwantes and deliberately avoiding return to camp and rejecting offers of transportation. In view of the preponderance of evidence to the contrary, Misa's testimony and credibility as a witness became questionable. In conclusion, repatriation of Philippine laborers who become involved in criminal offenses and violations of their contract is considered a reasonable procedure.

Assertion: The case should be reinvestigated.

Comment: The commander having jurisdiction in this area feels there is no requirement for a reinvestigation in this case.

With regard to the suggestion that incidents of this nature may be avoided in the future by permitting laborers during their off-hours to go to non-restricted areas to divert themselves from the monotony of camp life, at present, supervised shopping trips are permitted. Further relaxation by permitting supervised recreation parties for sightseeing, swimming, picnicking and engaging in sports in designated areas has been recommended. It is estimated that construction under this contract will be completed by 1 January 1957 with only a few laborers remaining another month for roll up operations. The problems associated with the contract will therefore cease to exist.

I trust the foregoing will provide sufficient basis for your reply to the notes from the Philippine Government.

Sincerely yours,

151 J. N. McDonald

Mr. Vernon McKay
Acting Director, Office of
Dependent Area Affairs
Department of State
Washington 25, D. C.

ORIG by MAJ LV SWENSON OP-215B
X-54360 ... 10/19/56 ... Felker
RS #77291 and RS #80619

Encl:

- (1) Photostatic copy of letter from Commander Frank W. Avila of 14 May 1956, with enclosures, and Commander Naval Forces Marianas endorsement thereon