

Girard Case Summary



HEADING FOR HOME—Pvt. William S. Girard, who caused international incident by killing a Japanese woman in Japan, and his Japanese bride sit in compartment of train at Oakland station before leaving for Hiroo to get discharge.

Summary of the Girard Incident (also know as the Somagahara Incident):

- On the afternoon of January 30th, 1957, Specialist 3rd Class William S. Girard threw spent brass cartridges around the vicinity of a machine gun he was guarding. He did so in an apparent attempt to lure Japanese who were collecting the spent cartridges close enough to then scare them by firing over their heads as they approached. However, when Japanese shell gatherers did approach, he used a blank loaded into his rifle-mounted grenade launcher to shoot empty shell casings towards individuals about 20 yards away. One shell casing struck Naka Sakai of Somagahara in the back, killing her.
- The Japanese government argued that Girard was not performing official duties when he shot Sakai, was not therefore protected under the SOFA, and that Japanese officials should be granted primary jurisdiction in the case. The U.S. initially argued that he was “on duty” even if not performing actual duties and should therefore be subject to U.S. jurisdiction.
- The Secretary of the Army, in consultation with the Japanese government through a Joint Committee, originally agreed to turn Girard over to Japan to face prosecution. The Joint Committee structure was written into the SOFA specifically to solve questions such as conflicting jurisdiction.
- The incident became a full-blown diplomatic crisis when the Department of State indicated that it wanted to reverse the bilateral decision made in the Joint Committee and insist on primary jurisdiction. The DoS feared the precedent that granting such jurisdiction to Japan would set. Cable traffic at the time revealed that they and others in Washington thought doing so could negatively affect U.S. base negotiations around the world. They were in particular concerned with base negotiations taking place in the Philippines at the time.

- A similar case in Taipei in which another U.S. serviceman committed a crime but was found not guilty by a military process was publicized extensively in the Japanese press.
- The U.S. eventually agreed to turn over Girard and grant primary Japanese jurisdiction. However, the U.S. government insisted that the initial decision by the Joint Committee was incorrect and that turning over Girard implied no precedent for future cases. DOS lawyers insisted that if a military personnel committed a crime “while on duty” in the future, that the person would not be turned over to national (in this case Japanese) authorities.
- A majority of U.S. media outlets and veterans organizations loudly criticized Eisenhower, accusing him of “selling our soldiers down the river”.
- On June 18th, 1957, Girard’s lawyers filed a writ of habeas corpus against Dulles in District Court to prevent Girard from being handed over to the Japanese authorities. The court ruled that delivering Girard into custody of the Japanese authorities for trial would violate Girard’s rights under the Constitution of the United States. The effect of this was to temporarily halt transfer of Girard to Japanese authorities.
- The District Court’s decision was appealed by the U.S. government and eventually reversed by the U.S. Supreme Court, after which Girard was delivered to Japanese custody to stand trial.
- Girard was found guilty of inflicting bodily injuries resulting in death and given a 3-year suspended sentence. After the trial, he returned to the U.S. with a Taiwan-born Japanese bride.

Excerpts from news articles

- LA Times: June 5 1957
http://latimesblogs.latimes.com/thedailymirror/2007/06/soldier_kills_w.html
 - Until the moment he pulled the trigger on that day in January, Spc. 3rd Class William S. Girard of Ottawa, Ill., was a just bored 21-year-old soldier with an IQ of 90 guarding a machine gun on a firing range.

Until the moment Girard pulled the trigger, Naka Sakai of Somagahara, Japan, was just a 46-year-old wife and mother of six children from an impoverished village scavenging shell casings from the range.

Maybe as a warning, maybe out of boredom, Girard had his companion, Spc. 3rd Class Victor N. Nickel, throw some empty cartridges out on the firing range. As Sakai and the other scavengers scrambled to pick up the precious brass, Girard fired a warning shot: a spent casing from a grenade launcher mounted on a borrowed M-1 rifle. But the casing struck Sakai, killing her and touching off an international furor.

- Times: June 17, 1957
<http://www.time.com/time/magazine/article/0,9171,867698,00.html>
 - "Remember Pearl Harbor!" "For the sake of good relations between Japan and America we shall conduct a fair trial," said the Japanese chief district justice slated to try Girard. But the voice of Tokyo was soon drowned out by the growing uproar in the U.S. "Sold down the river," cried the Veterans of Foreign Wars; TO THE WOLVES, SOLDIER, cried the New York Daily News. In Girard's home town, Ottawa, Ill. (he lived there in the family trailer one year before enlisting in 1953) relatives and friends got up a 182-ft. petition protesting "a clear violation" of the U.S.'s duty to stand up for its fighting men. "You have traded the loyalty of the mothers of America for the treacherous yeses of a country that has proven its sneakiness," one of the ladies of Ottawa protested to Dwight D. Eisenhower. "Remember Pearl Harbor, Mr. President."

Soon letters were pouring into newspapers, heavily backing an American trial for Girard. Congressmen, from left to right, were hammering at the Dulles-Wilson ruling; e.g., Ohio's Senator John Bricker accused the Government of "sacrificing an American soldier to appease Japanese public opinion." Girard's defense attorney, who was recommended for the job by the Hearst New York Journal-American, filed suit in U.S. District Court in Washington to have Girard brought back to the U.S., announced plans to subpoena Dulles, Wilson and Army Secretary Wilber Brucker. The counterblasts were soon rolling in from all over Asia, where the Dulles-Wilson ruling had been hailed as a declaration that the U.S. was not a lordly, imperial-minded power. Amid the U.S. uproar, this new Asian good will, said the Times of Indonesia, was now "considerably nullified."

Excerpts from "Foreign Relations of the United States: Department of State Correspondence"

<http://digicoll.library.wisc.edu/FRUS/>

- **Ambassador Macarthur:** I am told that of over fourteen thousand offenses since October 1953 in which Japanese had the right to exercise jurisdiction, they in fact ceded jurisdiction to us in all but four hundred and thirty. This is three percent compared to what I am told is the worldwide average in similar circumstances of twenty-eight percent. (Macarthur: Telegram from the Embassy in Japan to the DOS. Japan, pg. 315)
- **Ambassador Macarthur:** The Girard Case has the most grave and far-reaching implications not only for both Japan and the United States in terms of our vital interests in and future relations with Japan but also in terms of our entire posture throughout free Asia. We know for example that the Philippine Govt is following this case closely and in detail and that its outcome will affect successful conclusion

of our base negotiations with the Philippines. The recent Reynolds case in Taipei, which is carried in the Japanese press today comes at most unfortunate time in terms of Asian opinion. The above relates only to my present estimate of the situation out here and does not cover the other highly important considerations which must be weighed and evaluated in Washington. (Ibid: Foreign Relations: 1955-57, Volume XXIII pg 316)

- **Summary of phone call between Sec of State Dulles and President Eisenhower:** The Sec said the situation in Asia on the status of forces has gotten us into a most terrible predicament. He referred to the reports from Taiwan. The Sec is satisfied if we don't turn this fellow over in Japan as Defense originally agreed we might as well write Japan off.
- "Following this talk on disarmament, I discussed briefly the situation in Japan in relation to the Girard case and the situation in Taiwan resulting from the acquittal of Reynolds. It was the President's strong feeling that prompt and radical steps had to be taken to cut down the number of our armed forces in foreign territories. He said that it was inevitable that they would sooner or later produce strong anti-American feelings. (Ibid)
- **Memo of telephone conversation between Sec of State and Asst Sec of State for FE Affairs (Robertson) May 1957, Pg. 322:** "The President said he had come to the conclusion that we ought to turn this fellow back (to Japan). He was very anxious to have it done so that the proper interpretation of the Administrative Agreement did not require our turning over people. It would not happen again. We wanted to prevent a stream of criticism on the SOFA. The Sec. said he thought it could be explained that it was handled at a low level. A mistake was made and we would have to live with it.
- **Supplementary Notes on the Legislative Leadership Meeting, Washington, June 4, 1957, pg. 337:** "The President said we were not required to forego jurisdiction but that we had done so voluntarily. He pointed out that in some 14,000 cases, the Japanese had voluntarily relinquished jurisdiction in 13,642, that Japanese sentences in the cases they tried and convicted were lighter than the sentences meted out by our court—martial, that Treaty procedures were followed to the point where we had originally relinquished jurisdiction over Girard, and that we did not wish to back out of that agreement.
- **Telegram from DoS to EoJ (Embassy of Japan) June 5, 1957, pg. 342:** "Girard case has set loose a wave of anti-Japanese sentiment being stimulated by certain organizations such as the American Legion...President has suggested you should diplomatically alert Kishi to possibility there may be some sporadic manifestations which we hope he will understand."
- **Memo for Deputy-Undersecretary of State for Political Affairs to Sec of State, June 10, 1957, pg. 344:** "According to Defense, the latest available figures: These cover the period from October 29, 1953, when the current jurisdictional arrangements went into effect, up through November 30, 1956: Cases in which Japan had primary jurisdiction: 12,581. Trials by Japan: 396 (3.1% of above). Americans actually confined to Japanese prisons: 87.

- **Memo of Conversation, June 19 re appeal of Girard case, pg. 365:** "The JAG representative pointed out that it had serious repercussions in that it was probable that waivers could no longer be obtained for American troops and that they would be put in foreign jails all the time."

Excerpts from Supreme Court case 354 U.S. 524 (1957): WILSON v. GIRARD
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=354&invol=524>

On the afternoon of 30 January 1957, about 30 members of Company F, 8th Cavalry Regiment, were engaged in a small unit exercise at Camp Weir range area, Japan, involving an attack by one squad on a hill defended by another squad. The Commanding Officer of the 8th Cavalry Regiment, COLONEL HERBERT A. JORDAN, states that during the morning he was appalled at the large numbers of Japanese civilian trespassers present in the area and interfering with the conduct of the exercise.

Specialist 3/C William S. Girard was present during the conduct of the exercise and Girard had a grenade launcher on his rifle. He had been armed with this same weapon during the morning exercises in which he had participated and during which he had fired 80 rounds of ball ammunition. After the two soldiers had arrived on the ridge, Girard, on two occasions, placed an expended 30-caliber cartridge case in the grenade launcher and projected it by firing a blank. At his second shot, a Japanese woman, Mrs. Naka Sakai, fell. An autopsy disclosed that an expended 30-caliber cartridge case had penetrated her back in an upward [354 U.S. 524, 534] direction to a depth of 3 1/2-4 inches, causing her death. The exact distance between Girard and the victim at the time of the incident is uncertain. The Japanese witnesses put it about eighteen meters (approximately 20 yards).

ONOSAKI, a Japanese witness, stated that Girard, after enticing him and the victim toward Girard by throwing some brass on the ground and indicating that it was all right for them to pick it up, suddenly shouted for them to get out and thereupon fired one shot in the direction of Onosaki. As the victim was running away, Onosaki stated that Girard, holding his rifle at the waist, fired a second shot at the victim at a distance of about eight to ten meters. This testimony is corroborated in part by other Japanese who were located at a distance of from 100-150 meters.

Both Girard and Nickel have made a number of statements. NICKEL at first denied knowing anything about the incident. GIRARD admitted only that he had fired one round over the heads of the Japanese. Both gradually changed their testimony. NICKEL, but not Girard, admits to throwing brass on the ground. GIRARD admits that he knew his weapon, fired in the manner in which he fired it, was fairly accurate at short ranges, but denies that he knew of its striking power; he further

states that he fired from the waist over the [354 U.S. 524, 535] woman's head and did not intend to hit or wound her, but only to scare the Japanese away.