

Tokyo Rose's First Impression of Japan Made Her Yearn for America Again

(Seventh of a Series)

By HARRY T. BRUNDIDGE

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They call it Pacific, but it can be, and frequently is, a mighty rough ocean.

Rose crossed by the northern route, and was ill for the first five of the nineteen days between Los Angeles (Wilmington port) and Yokohama. There was storm after storm.

The *Arabia Maru* docked on a sultry day during the last week in July, 1941.

Even then, the Japanese high command was plotting the Pearl Harbor attack.

"Of course, I didn't know about that—then," she told Clark Lee and myself, as we sat in my rooms in the Imperial hotel in Tokyo, on that hot September 1, 1945.

As we questioned her, Lee typed. Again, the writer will let her tell her story, in her own words:

We traveled second class with three in my cabin.

The other two were a Neist girl and a girl from Brazil.

Landed July 25

We got to Yokohama July 25. It was my first experience with such sultry weather.

My first impression was that I had never seen so many Japanese in my life. Uncles, aunts, first, second and third cousins, were all there.

All were excited over my presents of fruit, candy and chocolate bars. The candy and chocolate had started to melt in that terribly hot weather, and my aunts, uncles and cousins, all excited, began to

eat the stuff on the spot. I thought then "These Japanese are indeed a curious people."

We moved away from the crowded pier and its festoons of serpentine, and I was led to a jam-packed station where we waited for a car to take us to the New Grand hotel, where we lunched before starting for Tokyo. My first impressions were that Japan was a very backward country, indeed, and it was a pleasant surprise to walk into the cool lobby of the New Grand.

Food Almost American

The food was almost American. My uncle, noting my surprise, said: "See, you find good food like this in Japan, too, ah so!"

We returned to Yokohama station and boarded an electric trolley for Tokyo. People all but fought to get into the cars. I've seen motion pictures of the jams in New York subways, but this was much worse. The heat was suffocating, and the stench was terrible. Later I was to learn it came from the W. C.'s—not the people. I found the Japanese to be as clean—or cleaner—than we Americans.

I certainly missed my auto.

Naturally, I felt quite strange in meeting my Japanese relatives. But there was such a striking resemblance between my mother and my auntie—their voices were identical—that my heart went fast, and my throat choked up. My cousin, a year younger than I, had come to the ship wearing an orchid kimono. The two of us looked very much alike. We found we wore the same size shoes, almost the same size dresses, and our voices were almost alike.

RE: "TOKYO ROSE"

FROM: THE NASHVILLE TENNESSEAN
5/20/48

(continued next page)

Through Industrial District

The electric train raced through the great industrial district between Yokohama and Tokyo—now a vast ruin. We roared through Higashi-Kanagawa, Tsurumi, Kawasaki, Kamata, Omori, Oimachi, Shinagawa, and others, and 50 minutes after leaving Yokohama were at Tokyo station. I was bewildered as I followed my uncle, aunt and cousin through the vast throng that crowded the station. Porters followed with my luggage, slung over their shoulders with straps. My uncle found a charcoal burning taxi, and we set out for his home in Setagaya ward.

We piled out at the house and I almost committed an unpardonable sin: Failure to remove my shoes before entering the house. Suddenly I remembered. Perhaps my memory was jogged by seeing my uncle sit on the little platform, or porch, outside the doorway, deftly flip off his shoes, spin on his backside, come up erect, and open the sliding door. I sat down, as did my aunt and cousin, and removed my shoes. I was clumsy in getting onto the platform without letting my feet touch the ground. Auntie and cousin giggled delightedly. Maybe I should explain that the floors of Japanese homes are all covered with beautiful straw matting called tatami. To keep it spotless, shoes are removed before entering, and stockinged feet encased in 'indoor' cotton socks, or felt slippers.

Jap Homes in Los Angeles

There were many Japanese-type homes in Los Angeles, but I had never been in one.

This was the first time I had ever entered one.

It was the first time I had seen tatami, or sat on the floor to eat.

My father feared I wouldn't like the food and I didn't. I could eat only a half bowl of rice, which worried my uncle. He went to the prefecture and had my ration changed and I received bread instead of rice. I had brought along a small supply of canned food, which I soon used up and it took me weeks to get used to Japanese food, and there was a limited quantity at that.

On the day after my arrival, my rounds of the police stations began. I had to register with both metropolitan and ward police. I missed the freedom of America. The restrictions were irksome, especially not being able to travel without a permit. I had been in Japan only a short time when I wrote my family that Japan was no place for an American-born person to live. I told them the sooner I could come home, the better. My father's original plan was for me to come home in about six months. He planned to come out in March, 1942, pay his respects to his ancestors, and take me home with him. I wrote my father that if he really intended coming to Japan he should first think over the freedom to be enjoyed in the United States compared to Japan, where freedom was less than a word.

Writes Sister of Contrasts

~~My~~ sister Jura about the contrast between the two countries, telling her how little school kids in Japan had to march, drill and engage in bayonet practice. I told her everything we had heard in the United States about the courtesy of the Japanese was wrong. From that first day on the electric train I experienced a complete lack of courtesy. I didn't have words to answer their insults, so I just kept quiet. I couldn't understand the attitude of the shopkeepers who almost bawled you out for coming in to buy things. My uncle explained that this was due to the scarcity of goods.

I entered the School of Japanese Culture to improve my Japanese. I received private instruction daily and had to overcome two difficulties. In learning Japanese you learn from Japanese readers in which they have pictures of things Japanese. I could read the words, but didn't know what they meant because the objects usually were strange to me—things I hadn't seen before. So they were two great obstacles—not knowing the language and not knowing the articles pictured.

In the meantime, the police wanted me to report constantly. I would report and they would ask me one or two questions such as, "How do you like Japan?" or "Are you enjoying your stay here?" Next day

they would telephone my uncle and tell him to have me go to the station. I would report again, to answer simple questions: "Do you like Japan better than the United States?" "Is food scarce in America?" It was annoying, and I wanted to go home. My aunt was steadily improving, due to a lack of carbohydrates in her diet, and the strictness of food rationing.

I had enough money—\$500 in travelers' checks—to get home. I was packing to go home in November, 1941, when, suddenly, all shipping was stopped.

There was nothing to do but stay on. I continued my classes.

On the morning of Pearl Harbor my uncle awakened me.

"Japan is at war with America," he said.

I told him I couldn't believe it. "It's true," he said solemnly. "I heard it on the radio."

What now? I wondered as I dressed.

(To Be Continued)

Tokyo Rose Welcomes Chance To Stand Trial

TOKYO—(AP)—The woman who says she is Tokyo Rose declared yesterday she would "welcome a chance" to clear her status by facing trial for treason.

"I am living a life of doubt. I want my case settled once and for all." Los Angeles-born Iva Ikuko Toguri d'Aquino said in an interview.

Her comment was occasioned by a story in The Nashville Tennessean that the United States justice department was contemplating her re-arrest and return to America to face treason charges.

Tokyo Rose was famous during the war for pro-Japanese propaganda broadcasts to American troops in the Pacific.

The justice department stated some months ago that possibly a half-dozen women had made such broadcasts and that GI's had loosely applied the name "Tokyo Rose" to all of them. Assistant Attorney General T. Vincent Quinn said in Washington that Mrs. d'Aquino's broadcasts usually were made under the name of "Orphan Ann."

The wife of a Portuguese citizen, she was arrested after the Japanese surrender but was released last year for lack of evidence.

She since has been living with her husband in part of a tumble-down two-story house.

The legal section of occupation headquarters reported it had no orders to rearrest her.

Told of The Tennessean story, she said yesterday, "They have left my case hanging unsettled for nearly three years. It's been going on for such a long time. Since I have no legal advice, I don't know just how I stand."

She said she applied at the United States consulate in Yokohama almost a year ago for a passport as an American citizen, "but I have had no answer of any kind."

She acknowledged that in March she initialed each page of a statement for Harry T. Brundidge, who wrote The Tennessean article. Brundidge had obtained the statement in 1945 but did not at that time get her to sign it.

"It was just a statement which I gave out soon after the war's end because I was being pestered by everyone," she said.

Repeatedly she commented, "It is all very hard to understand. If I'm not an American citizen, how can they try me for treason?"

'Rose' Never Denied Being 'One and Only'

Editor's Note: After reading the foregoing story from Japan quoting Tokyo Rose last night, Harry T. Brundidge, writer for The Nashville Tennessean who disclosed exclusively in Sunday's Tennessean that the case of the famed Japanese woman may be reopened, wrote the comment which follows.

By HARRY T. BRUNDIDGE

Iva I. Toguri d'Aquino, described in the foregoing dispatch from Tokyo as "the woman who says she is Tokyo Rose," has never denied the sobriquet.

From Sept. 1, 1945 (when I first saw her) and until last March 26 (when I last saw her) she never denied her original statement

Tokyo Rose

(Continued From Page One)

that she was "the one and only Tokyo Rose."

It is true that she never used the name on Radio Tokyo, just as it is true that she was the only woman on the "Zero Hour" program beamed at American troops in the Pacific during the war.

The name Tokyo Rose was pinned on her by troops in the Pacific who listened to her "Zero Hour" program.

She first learned of it in an article in a magazine from a neutral country, telling how troops, listening to the "Zero Hour" program of music and Japanese propaganda, had given her that moniker.

After that, all inter-office communications in Radio Tokyo, intended for Iva's desk, were addressed to "Tokyo Rose." Everyone in the station called her by that name.

In the dispatch from Tokyo, Rose brought up the question of nationality. Maybe she's Portuguese now—(that's a legal question about which I know nothing)—but she was an American citizen from the beginning of her broadcasting on "Zero Hour" until she married Philip d'Aquino in April, 1945.

Rose is right about wanting her case settled, once and for all, as set forth in the news story. In my first interview with her in 1945 she said to me: "I want to get it over. I'm tired of the suspense. If they're going to hang me I'd like to get it over."

But she's wrong about the statement, or confession, which Clark Lee and I obtained in 1945, when she says she made it "because I was being pestered by everyone."

Lee and I were the first Americans to interview her and that statement was made Sept. 1, 1945.

—nine days before Tokyo was occupied by American troops.

RE: "TOKYO ROSE"

FROM: THE NASHVILLE TENNESSEAN
NASHVILLE, TENN.
MAY 3, 1948

FILE - R.F.

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RE: "TOKYO ROSE"

FROM: THE NASHVILLE TENNESSEAN
NASHVILLE, TENN.
MAY 3, 1948

Walter Winchell

In New York

"Poor" Butterfly

Dear Tokyo Rose: Some months ago Walter Winchell passed along to me your letter of April 14, 1948. The one you handed to the late Earl Carroll (in Japan) after you had told him your long sad story. He promised you that it would be delivered personally to Mr. Winchell and given every consideration. Apparently the boys conducting the investigation had trouble nailing down some facts as they always do in serious cases of treason for espionage or psychological warfare where an attractive woman is involved. And before evidence was uncovered you hoped for a quick whitewash by your own taste right out of a pressure cooker.

Well, you were on the right track, Rosie. You got yourself an influential American friend to take your side. That's a very important first step. Ilse Koch did that, too. But your line of attack is so similar to the line of attack pursued by Ilse Koch, the devil of Buchenwald. I am a little suspicious of bad girls (and that's what you call yourself in your letter) who turn around and charge that their Americans are so rotten that they are ready to deprive a defenseless woman of liberty, toss her into jail, trump up evidence and try her for treason just to have a goat.

Your words over Radio Tokyo constituted psychological warfare and aided and abetted Japan in its attempt to destroy Americans and conquer the United States, where you were born!

What is psychological warfare? Col. Mori, chief of Japanese intelligence in China, when testifying before a U. S. Military Commission in Shanghai, stated under oath: "Yes, Japan spent millions on psychological warfare, because psychological warfare is a most effective weapon to fire at a nation which permits freedom of speech and thought. It destroys the enemy (Americans) spiritually."

Rosie, do you remember the night you broadcast about atabrine from Radio Tokyo to the First Marine Division, then struggling with the jungle, its horrible diseases and several fanatic Japanese army divisions on Guadalcanal? "And so, my poor forsaken little bastards," you beamed over your Zero Hour, "be sure to take your atabrine before you fall asleep."

"You poor Marines," you pronged us, "I wish you could spend the night with me. I am a little Japanese pin-up girl. But it wouldn't be any use. Your officers won't tell you because they want you to take these atabrine pills every day. This will prevent malaria and keep you on your feet until you get your heads shot off by brave Japanese soldiers who must kill you to bring peace to the world."

"Your officers don't dare to tell you—but I will—that when you swallow those blither atabrine pills, they will not only turn you yellow for the rest of your life, but they will also prevent you from ever being able to make love again," you lied.

That was bad, Rosie, powerfully bad. That was psychological warfare. That was treason—if you are the girl who uttered the words. It's hard to say how many Marines you killed with that broadcast, impossible to estimate how many Marines you caused to be afflicted with malaria for the rest of their lives. General Vandegrift had to issue an order by which all of us had to come out of our battered front lines every day and queue up for rations. Before we got anything to eat we had to swallow a pill in the presence of regimental surgeons, who were pulled away from their hospital duties with the wounded for that shameful routine caused by you.

When the First Marine Division pulled out of the Solomons, it was a tattered outfit, Rosie, but you wouldn't let us alone, would you? Most of us who still had our arms, legs and head also had the aftermath of typhus, malaria, jaundice, black water fever, filariasis and multiple other tropical fungus infections.

Our convoy to Australia was supposed to be a carefully guarded military secret, but the night we arrived there you knew all about it. The Imperial Japanese High Command must have thought a lot about your Zero Hour broadcast and the minute secret that it all came

This is a clipping from
page _____ of the
Daily Mirror
Date / /
Clipped at the Seat of
Government

WFT:DFG:amc

146-28-1941

(typed: 3/21/56)

March 22 1956

Honorable Paul G. Rogers
House of Representatives
Washington, D. C.

Dear Mr. Congressman:

The Department of Defense has referred to this Department your letter dated February 27, 1956, in which you requested information concerning the release of "Tokyo Rose" for your use in answering an inquiry which you have received from a constituent.

Iva Toguti D'Aquino, generally referred to as "Tokyo Rose," was convicted of one overt act of treason on September 29, 1949, in San Francisco, California, as a result of her broadcasting activities over Radio Tokyo during World War II. On October 6, 1949, she was sentenced to ten years' imprisonment. In this connection it may be of interest to your correspondent that the statute under which Mrs. D'Aquino was convicted provides a minimum punishment of five years and a maximum punishment of death, and the severity of the sentence imposed within those limits is in the sole discretion of the court.

Section 4161 of Title 18, United States Code, provides in part as follows:

Each prisoner convicted of an offense against the United States and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subjected to punishment, shall be entitled to a deduction from the term of his sentence beginning with the day on which the sentence commences to run, to be credited as earned and computed monthly as follows:

* * *

Ten days for each month, if the sentence is ten years or more.

cc: Records
Green
Deputy Attorney General

SENT BY MESSENGER
COMMUNICATIONS SECTION
MAR 22 1956 L

Provision is also made by statute for the allowance, in the discretion of the Attorney General, of a deduction from sentence for industrial good time earned for employment by a prisoner in an industry or camp and for performing exceptionally meritorious service or duties of outstanding importance in connection with industrial operations.

Section 4163 of Title 18, United States Code, provides:

A prisoner shall be released at the expiration of his term of sentence less the time deducted for good conduct.

Therefore, Mrs. D'Aquino's release on January 28 was mandatory under law.

I trust that the above information will be helpful in replying to your constituent. If there is any other way in which I may be of assistance to you, please feel free to communicate with me.

Sincerely,

WILLIAM F. TOMPKINS
Assistant Attorney General

Memorandum

TO : Archibald Cox, Solicitor General

DATE: April 2 1962

FROM : Herbert J. Miller, Jr., Assistant
Attorney General, Criminal Division

HJM:DFG:klt
146-28-1941

SUBJECT: Return of Trial Transcript to Supreme Court
D'Aquino v. United States

Attached for your signature is a letter to accompany the return to the Supreme Court of the typewritten transcript in the case of D'Aquino v. United States, No. 299 Misc., October Term 1951, in which certiorari was denied, 343 U. S. 935.

The loan of this material for the use of the Immigration and Naturalization Service was initiated by a letter dated February 29, 1956, from the then Solicitor General, Simon Sobeloff, to the Clerk of the Court and its release was made pursuant to court order.

Early this year this Division received a request from the Office of Public Information of the Department for a copy of the trial transcript. When a complete set of the transcript could not be located in the Department, the Immigration and Naturalization Service, at our request, made available the transcript which had been obtained from the Supreme Court. Since the Immigration and Naturalization Service advised that it no longer had use for the transcript, this Division agreed that it would return the transcript to the Supreme Court when the Office of Public Information was finished with it.

If the attached letter meets with your approval, I shall appreciate it if you will return the signed letter to me so that it may be enclosed with the cartons containing the transcripts.

Attachment

146-28-1941	
DEPARTMENT OF JUSTICE	
14	APR 4 1962
RECORDS BRANCH	

April 2/62
OK
JAD
(for Ac, SG)

Office Memorandum • UNITED STATES GOVERNMENT

TO : Lewis M. Dukes
Records Administration Office

DATE: February 20, 1959

TH
FROM : Thomas K. Hall, Chief
Criminal Section

WSK:vjl

146-28-1941

SUBJECT: IVA TOGURI D'AQUINO

It is our understanding that you wish to transmit to the Federal Records Center the enclosures to the file relating to Iva Toguri D'Aquino. This Division has no objection to such a procedure.

WSK

*file
LMD*

FILED

146-28-1941		R E C O R D S
DEPARTMENT OF JUSTICE		
19	FEB 27 1959	
RECORDS BRANCH		

Joseph M. Swing, Commissioner of Immigration
and Naturalization

(typed 3/14/56)

Warren Olney III, Assistant Attorney General
Criminal Division

March 15, 1956.
WO:KCS:dlh

IVA EKUKO TOGURI D'AQUINO, aka Tokyo Rose

146-28-1941

Handwritten: MARCH 15 1956

According to news items emanating from Chicago, Illinois, on March 13, 1956, the Immigration Service has notified subject to leave the United States by next April 13 or face deportation proceedings. It will be appreciated if you will communicate with me before deportation proceedings are instituted against her.

MAR 21 1956

Handwritten: @
3-14
pdw
3/14

FILED
BY
MAR 15 1956

SENT BY MESSENGER
COMMUNICATIONS SEC
MAR 15 1956 RR

CC: Records ✓
Chrono.
Mr. Shelver
Mr. McLean

Director, Federal Bureau of Investigation

April 4, 1949

Alexander M. Campbell, Assistant Attorney
General

AMC:TED:mhv
146-28-1941

United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in the Federal Northern Judicial District of California. The trial of this cause on its merits has been set to commence on 16, May, 1949 at San Francisco, California. The petit talasmen selected to sit at the trial of this case will be drawn from a Master Trial Jury list prepared in March, 1949. Three photostatic copies of said Master Trial Jury list for the March Term, 1949, for the United States Court for the District aforesaid are attached hereto. An investigation by the Bureau of the prospective petit jurors named in the Master Jury list hereto attached with reference to, (1) Their possible criminal record, (2) Their credit rating, (3) The Bureau indices on said jurors would be helpful and beneficial to the prosecution staff.

It is therefore requested that the Special Agent in charge of your San Francisco Office be immediately directed to proceed at the appropriate time with the investigation herein before mentioned, looking toward the selection of an impartial, non-partisan, unbiased set of jurors to hear and try the facts in this cause.

PEYTON FORD

Approved: _____

Peyton Ford

The Assistant to the Attorney General

Attachment

cc: Records
Chrono
Cur file
Extra

AAC:smv

116-28-1941

April 4, 1949

REC'D

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in your jurisdiction. The Department acknowledges receipt of and thanks you for yours of March 21, 1949 addressed to Tom DeWolfe of the Criminal Division. The subject matter of your letter refers to a routine investigation of the petit jury panel from which prospective talesmen will be selected to decide the factual issues at the trial on the merits in the case at bar.

It has been the invariable policy of the Department in treason cases of this type in the past to request the Federal Bureau of Investigation to conduct a routine investigation of the panel of prospective talesmen from which the trial jurors will be selected. The Department's experience in this type of litigation has led it to believe that some advantageous results may accrue to the Government as a result of such an investigation. It is therefore believed that it will be to the best interests of the Government at the appropriate time for this Division to request the Bureau to make an investigation of the jury panel from which petit veniremen will be selected to sit in this cause.

Please keep the Department advised as to all material developments that ensue herein.

Respectfully,
For the Attorney General

ALEXANDER M. CAMPBELL
Assistant Attorney General

cc: Records ←
Chrono
~~Our file~~
~~Extra~~

TED
898

WT

AM

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Mr. J. Walter Yeagley
Assistant Attorney General
Internal Security Division

DATE: February 10, 1966

FMV
FROM : Fred M. Vinson, Jr.
Assistant Attorney General
Criminal Division

FMV:JWK:wm -
146-28-1941

SUBJECT: Request to examine Department Records

There is attached an incoming letter from Captain F. Kent Loomis, Director of Naval History, inquiring as to the existence of transcriptions of the broadcasts of Iva Toguri d'Aquino (Tokyo Rose) and a draft reply thereto, which you may wish to see.

Since this case is within your jurisdiction I will appreciate being advised as to whether you have any comments or objections relative to this request.

RECEIVED
FEB 11 1966

146-28-1941	
DEPT. OF JUSTICE	RECEIVED
11 MAR 7 1966	
INTERNAL SECURITY DIV Criminal Section	

AMC:TED:MAV

116-28-1941

MAR 27 12

March 28, 1949

RECORD

FRANK J. HENNESSY, ESQUIRE
UNITED STATES ATTORNEY
SAN FRANCISCO, CALIFORNIA

RE: UNITED STATES V. IVA TOGURI D'AQUINO

REQUEST YOU HAVE NOEL STORY WIRE DEPARTMENT IMMEDIATELY INFORMATION AS TO EXPECTED TIME DEPARTURE FROM SAN FRANCISCO AND ARRIVAL IN TOKYO AND ON WHAT CORPORATE CARRIER. DEPARTMENT OF THE ARMY WISHES THIS INFORMATION SO THAT IT CAN BE PASSED ALONG TO SCAP BY RADIO AND SO THAT SCAP WILL BE PREPARED TO FURNISH ASSISTANCE TO STORY AS REQUESTED BY JUSTICE DEPARTMENT.

TED
2/28

Handwritten signature

ALEXANDER M. CAMPBELL
ASSISTANT ATTORNEY GENERAL

RECEIVED

cc: Records ←
Chrono Our file

AMC:TED:mmv

March 31, 1949

146-28-1941

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in your jurisdiction. You will find enclosed herewith copy of a letter from this Department to the Secretary of the Army under date of March 31, 1949 concerning the personal attendance at the trial on the merits herein of certain aliens as Government witnesses.

The enclosure is self-explanatory.

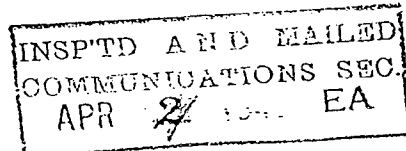
Respectfully,

For the Attorney General

ALEXANDER M. CAMPBELL
Assistant Attorney General

Enclosure No.
203918

cc: Records ←
Chrono
~~Our file~~
~~Extra~~



ALC:TED:mmv

March 18, 1949

146-28-1941

F. B. I.

AIR MAIL

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino
Treason

Reference is made to the above entitled treason prosecution presently pending in your district. Noel E. Story, Esquire, an attorney with the Department, will arrive in San Francisco on or about 28, March to confer with you, defense counsel and special agents of the Bureau, resident in San Francisco, prior to proceeding to the Orient for the purpose of representing the United States at the taking of defense depositions in Japan during April, 1949.

You will find enclosed herewith copy of my letter to Wayne M. Collins, Esquire, Counsel for the defendant herein under date of 18, March, 1949, concerning this matter. The enclosure is self-explanatory. Please keep the Department advised as to all material developments that ensue herein.

TED
WJ

Respectfully,

For the Attorney General

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AIR MAIL

ALEXANDER M. CAMPBELL
Assistant Attorney General

Enclosure No.
203908

cc: Records ←
Chrono
Mr. Foley
Our file

MAR 18 1949

AMC:TED:mmv

March 18, 1949

146-28-1941

*Call
ICTH*

B.H.

7/18/49

Mrs. Ruth B. Shipley
Chief, Passport Division
Department of State
Washington, D.C.

Dear Mrs. Shipley:

Re: United States v. Iva Toguri D'Aquino - Treason

Reference is made to the above entitled treason prosecution presently pending in the Federal Northern Judicial District of California. Wayne M. Collins, Esquire, Attorney At Law, San Francisco, California, is taking depositions for and on behalf of the defendant herein in Japan during the first part of April, 1949. The trial of this cause on its merits before a Federal court and jury will commence in San Francisco on 16, May, 1949.

Originally, this Department intended to send Tom DeWolfe of this Division to the Orient for the purpose of representing the Government at the taking of defense depositions during the period aforesaid. It has now been decided that Noel E. Story, an attorney with this Department will be substituted for Mr. DeWolfe for the purposes aforementioned and that Mr. Story will represent the Government for the purpose of cross-examining defense witnesses at the time the depositions for and on behalf of defendant are taken in the Orient, during April, 1949. It would be appreciated if your Department would obtain, from the Department of the Army, any clearance that becomes necessary for Mr. Story's entry into Japan and territory occupied by the United States Military during the period aforementioned.

Please rest assured that this Department is appreciative of your cooperation in this and all past matters.

Respectfully,

For the Attorney General

cc: Records ←
Chrono
~~Our file~~

ALEXANDER M. CAMPBELL
Assistant Attorney General

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146-28-1941

March 18, 1949

File

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MAR 22 1949

AIR MAIL

Wayne M. Collins, Esquire
Attorney at Law
Mills Tower
220 Bush Street
San Francisco, California

Dear Mr. Collins:

Re: United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in the Federal Northern Judicial District of California. The Department originally intended to send Tom DeWolfe of this Division to the Orient for the purpose of representing the Government at the taking of depositions herein. The Department has now decided to substitute Noel E. Story, Esquire, an attorney with this Department in lieu of Mr. DeWolfe on the mission aforesaid. Mr. Story expects to arrive in San Francisco on or about 28, March and can be located at the Office of the United States Attorney there. United States Attorney Hennessy at San Francisco has been so advised.

TED

WJ

Amey

Respectfully,

For the Attorney General

ALEXANDER M. CAMPBELL
Assistant Attorney General

cc: Records ←
Chrono
~~Our file~~

AHC:JEH:vb

146-28-1941

File
FCH

18 11 49

March 11, 1949

Dr. Dallas D. Irvine
Director, Photographic Records Division
The National Archives
Washington 25, D. C.

Dear Dr. Irvine:

Re: Iva Toguri D'Aquino; Treason

The above entitled matter is expected to be tried before the United States District Court for the Northern District of California in the near future. In this trial it will be necessary for the Government to introduce in evidence the acetate recordings of the defendant's broadcasts listed below, which are now in the custody of the National Archives.

It will be appreciated if you will deliver these recordings to the bearer, who will execute a receipt therefor. Every precaution will be taken to preserve the records and the same will be returned immediately after they have served the purpose set forth above.

The desired recordings, all acetate, are the recordings of the Zero Hour broadcast from Radio Tokyo on the following dates:

August 11, 1945
June 15, 1945
August 9, 1945
August 14, 1945
June 14, 1945
August 15, 1944
August 16, 1944
August 5, 1944
July 13, 1944
September 15, 1944

Respectfully,

For the Attorney General

g 2
WA
Records
Miss Hamlin
Mr. Hogan

ALEXANDER M. CAMPBELL
Assistant Attorney General

AMC:TED:mmv

March 18, 1949

146-28-1941

J. E. F.

AIR MAIL

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in your district. The Department acknowledges receipt of and thanks you for yours of the 15th instant, addressed to Tom DeWolfe of this Division, with which you enclosed an original and three copies of a stipulation prepared by Wayne M. Collins, Esquire, Counsel for the defendant herein, in connection with the taking of proposed depositions for and on behalf of defendant herein in the Orient in the near future.

TED

The stipulation submitted to you by Mr. Collins is substantially in the form orally agreed upon between Messrs. Collins and DeWolfe over the telephone. The original thereof has accordingly been signed and executed by Mr. DeWolfe and is herewith returned to you.

It is suggested that if you perceive no objection to the form or substance thereof it would be well for you to sign and execute the same and delivery it to Mr. Collins.

Handwritten initials/signature

Respectfully,

For the Attorney General

MAR 18 1949

ALEXANDER M. CAMPBELL
Assistant Attorney General

Enclosure No.
203909

cc: Records ←
Chrono
Hogan
~~Our file~~

ALC:TED:mmv

146-28-1941

March 18, 1949

J. E. R.

AIR MAIL

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino -
Treason

A trial brief on the facts in this litigation is
being prepared here in the Department. When the same is
completed, a copy will be forwarded to you.

Respectfully,

For the Attorney General

TED

Handwritten initials/signature

AIR MAIL

ALEXANDER M. CAMPBELL
Assistant Attorney General

cc: Records ←
Chrono
Hogan
~~Our file~~

~~Stamp~~

RECEIVED AND MAILED
MAR 18 1949

AMC:TED:mnv

March 18, 1949

146-28-1941

J. E. W.

AIR MAIL

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in your district. The trial of this cause on its merits is scheduled to commence before Chief Federal Judge Michael Roche and a petit jury on 16, May, 1949. It is assumed by the Department that the trial of this cause will necessitate the drawing of a new panel of petit talesmen. Please advise whether or no the Department's assumption in this regard is correct. If the Department is not in error in its assumption as aforesaid, information from you would be appreciated as to when it is likely that the panel aforesaid will be drawn and writs of venire facias will issue. Upon receipt from you of the information herein requested, the Department will initiate action toward requesting the Bureau to launch the usual pretrial investigation of the prospective petit panel from which trial jurors will be selected to hear the factual matters involved in this Federal criminal capital litigation.

Due to the nature of this case, and to the fact that it is a capital case, and due also to the publicity that the same has received in the past and the fact that some prospective veniremen will not wish to serve and others will be disqualified, it is believed that a minimum number of one hundred and fifty petit jurors should be drawn from which panel the final selection of trial jurors will be made in this case. In addition under the rules of criminal procedure for the United States District Courts, each party litigant herein is allowed twenty peremptory challenges.

cc: Records ←
Chrono
Mr. Foley
Mr. Hogan
Our file

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MAR 22 1949

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[Handwritten signatures]

The Department would appreciate your considered reaction to the matters herein discussed at the earliest possible moment, so that at the appropriate time a request may be initiated through channels to the Director of the Federal Bureau of Investigation seeking the usual jury investigation, in connection with the jurors who are to be called at the time the trial of this cause is scheduled to commence.

Respectfully,

For the Attorney General

ALEXANDER H. CAMPBELL
Assistant Attorney General

A&C:TDew:mnv

146-28-1941

February 23, 1949

J. E. F.

AIR MAIL

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino - Treason

Reference is made to the above entitled treason prosecution presently pending in your District. The Department has been advised that Wayne M. Collins, Esquire, Attorney at Law and counselor for the defendant herein, contemplates taking depositions for and on behalf of the defendant in the Orient during the latter part of March and first part of April, 1949. It is expected that Thomas E. DeWolfe, of this Division, will represent the Government at the taking of said depositions.

You will find enclosed herewith copies of the Departments letters under even date to Mr. Collins and the Departments of State and Army concerning the matter under discussion. The enclosures are self-explanatory.

Respectfully,

For the Attorney General

ALEXANDER M. CAMPBELL
Assistant Attorney General

Enclosure No.
319070

cc: Records ✓
Chrono
DeWolfe

68

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228
AJ
AMC by [unclear]

Strine's memo

Office Memorandum • UNITED STATES GOVERNMENT

TO : John M. Kelley, Jr.

DATE: February 11, 1949

FROM : Fred E. Strine

FES:JJP

SUBJECT: ~~Assault~~

Re: Tokyo Rose

APR 12 1954

Request

Doctrine of Coercion or Compulsion as an Excuse for Committing a Crime

Miss Moynahan's memorandum seems to exhaust the cases involving the application of the above doctrine to the crime of treason. The law is clear enough that coercion or compulsion may constitute a defense to the commission of any offense except murder. It will not justify the taking of a life of an innocent person but it will excuse any other offense, even such a serious capital crime as treason.

Miss Moynhan's memorandum does, however, omit the three fairly recent federal cases involving the general doctrine, though of course none of them are treason cases. Ford v. United States, 10 F.2d 339 (C.C.A. 9), affirmed on other grounds 273 U.S. 593, involved a conspiracy to smuggle liquor. It held that one cannot escape criminal liability for wrongdoing because he acted under a contract obligating him to obey orders. Giugni v. United States, 127 F.2d 786 (C.C.A. 1), held that the captain and crew of a foreign vessel could not be given criminal immunity, for the offense of sabotaging their vessel, on the ground that they obeyed orders given by their government.

Shannon v. United States, 76 F.2d 490 (C.C.A. 10), involved the interstate transportation of a kidnapped person in violation of 18 U.S.C. Sec. 408a. The Court stated that "Coercion which will excuse the commission of a criminal act must be immediate and of such nature as to induce a well-grounded apprehension of death or serious bodily injury if the act is not done. One who has full opportunity to avoid the act without danger of that kind cannot invoke the doctrine of coercion and is not entitled to an instruction submitting that question to the jury." A number of state cases are then cited. The opinion does not show whether this was a capital case under the Lindbergh Act. It probably was not since the courts' summary of the indictment does not indicate that it charged that the victim was not liberated unharmed.

The treason cases hold quite plainly that only the fear of death is an excuse for the commission of that crime. They eliminate

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the element of fear of great bodily harm which is present in the doctrine as applied to other crimes. Both the old cases in 2 Dallas (neither of which, incidentally, was decided by the U. S. Supreme Court since the McCarty case was decided by the Supreme Court of Pennsylvania and the Vigol case was decided by the Federal Circuit Court for Pennsylvania) limit the doctrine to fear of death, as do the texts and state cases, cited by Miss Moynahan, containing dictum on the question. It is not impossible that the federal courts today, with a much more liberal attitude than that which prevailed a few generations ago, would apply the rule stated in the Shannon case to treason. In fact I think it likely that they would.

In any event, however, it is certain that Axis Sally's fear would have to have been, at the minimum, of grave and serious physical injury. Mental fear such as the threat of confinement in a concentration camp would not be enough, nor would be the certainty of such confinement accompanied by no more than bad food and worse living conditions, etc. She would have had to have a well-grounded belief that refusal to commit treason would be certainly and immediately--not perhaps or at sometime in the indefinite future--followed by a confinement at which severe torture causing great physical injury would be applied.

11

Admissibility of Voluntary Statement
Given by Axis Sally While in Custody
of American Military Government Of-
icials in Europe.

As I understand it, the statement in question was voluntarily given by Axis Sally to Victor Woerheide and Samuel Ely about a month after the defendant's confinement began in March 1936. I assume that the voluntary nature can be proved if necessary since that is the controlling factor. I feel convinced that the federal courts would not permit the use of an involuntary confession or statement obtained from an American citizen in violation of his or her constitutional rights, even if the rights were violated in a foreign country. However, that would be a serious question requiring extensive thought and research.

Assuming that the instant statement was voluntary, its admissibility would not be affected by constitutional considerations. This leaves only the doctrine of the McNabb case, 318 U.S. 332, as further interpreted by the Anderson (318 U.S. 350), Mitchell (322 U.S. 65), and Upshaw (decided December 13, 1948) decisions. Under this doctrine, which would clearly apply to military custody for a civil offense if the custody occurred in the United States (Bayer v. United States, 331 U.S. 532) the statement in question would be inadmissible for any purpose. However, all these decisions

expressly state that the McNabb rule of evidence is based not on any constitutional grounds but only on the failure of arresting officers to follow the provisions of a federal procedural statute, 18 U.S.C. Sec. 591. Rule 5(a) of the Criminal Rules also is now applicable, but it had not yet been promulgated when the McNabb decision was rendered. Neither the statute nor the Rule, of course, applies in Europe or anywhere else beyond the jurisdiction of the United States.

Section 591 and Rule 5(a) do not apply by their very language and because the only federal penal laws which have extra-territorial effect are those which create crimes that directly obstruct or defraud the government and are capable of being perpetrated anywhere. Against such crimes the government may defend itself. United States v. Bowman, 260 U.S. 94. But this does not apply to other crimes or to procedural statutes, particularly to procedural steps like those provided for in Sec. 591 and Rule 5(a), both of which require the steps to be taken before designated federal or state judicial officers of whom, of course, none exist in foreign countries.

It therefore seems that any voluntary statement or admission made by Axis Sally is admissible, either in the case in chief or at any other time. The only thing which would affect its admissibility, assuming it to be otherwise material and relevant, is the McNabb doctrine, which doctrine cannot apply to procedure in a foreign country where neither 18 U.S.C. Sec. 591 nor Rule 5(a) is or was in effect. A doctrine or rule of law which is predicated upon acts that violate or fail to comply with the provisions of a federal statute—with no constitutional considerations involved in the matter—plainly cannot be invoked in any case where the pertinent acts or transactions were not subject to the statute because the latter was inapplicable.

There would be no difference whether the statement is used in the government's case in chief or to attack the credibility of the defendant at some or any stage of the proceedings. If the McNabb rule does not apply it may be used for any purpose; if that rule does apply and was not complied with, it may not be used at all for any purpose.

It might be possible to argue that under the peculiar circumstances of this case, where the confinement was by military authorities in an occupied, conquered enemy country, an imprisonment for one month prior to making a statement was not unreasonable. This is a major question, however, and the answer is by no means clear.

CLASS OF SERVICE
This is a full rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

WESTERN UNION

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SYMBOLS	
DL	Day Letter
NL	Night Letter
LC	Deferred Cable
NLT	Cable Night Letter
Ch	Ship Telegram

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The filing time shown in the date line on telegrams and day letters is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination.

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THOMAS E DEWOLFE ESQ
CARE OF US ATTORNEY

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REQUESTS IN RECENT LETTERS LARGELY MET BUT NOT FORWARDED BECAUSE OF YOUR IMMINENT RETURN. ADVISE TIME RETURN OF DEPARTMENT FILES

ALEXANDER M CAMPBELL ASSISTANT ATTORNEY
GENERAL JUSTICE DEPT WASHINGTON DC

146-28-199
DEPARTMENT OF JUSTICE
DEC 2 1953

FILED
BY RR
On DEC 8 1953

146-28-199

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

RECEIVED
FEBRUARY 18 1949

AMC:WEF:lr

146-28-1941

FEB 18 AM 11 47

JANUARY 18, 1949

THOMAS E. DEWOLFE, ESQ.
c/o UNITED STATES ATTORNEY
SAN FRANCISCO 1, CALIFORNIA

REQUESTS IN RECENT LETTERS LARGELY MET BUT NOT FORWARDED BECAUSE
OF YOUR IMMINENT RETURN. ADVISE TIME RETURN OF DEPARTMENT FILES.

ALEXANDER M. CAMPBELL
ASSISTANT ATTORNEY GENERAL

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CC: Records
Chrono.
Mr. Foley

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CRIMINAL DIVISION
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ALEXANDER M CAMPBELL

ASST ATTORNEY GENERAL DEPT OF JUSTICE WA

REURTEL UNITED STATES AGAINST DAQUINO. FILES BEING SHIPPED FROM HERE
TO DEPARTMENT VIA RAILWAY EXPRESS 18 JANUARY 1949

FRANK J HENNSSEY US ATTY.

18 1949.

TC 1126A

FILE - J.B.H.

146-28-194
DEPT OF JUSTICE
JAN 18 1949
DIVISION OF INVESTIGATION
PROPERTY FILE

V.M.P.
RECORDED

J.E.F.

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ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

AMC:JBH:lr

146-28-1941

January 14, 1949

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JAN 17 1949

REFERRED TO

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AIR-MAIL

Frank J. Hennessy, Esq.
United States Attorney
San Francisco 1, California

Dear Mr. Hennessy:

Attention: Thomas E. DeWolfe, Esq.

Re: United States v. Iva Toguri D'Aquino

Reference is made to your letter of January 5, 1949, concerning the procurement of various directives to the Supreme Commander, Allied Forces, in Japan.

The Criminal Division has been attempting for several weeks to obtain these and other documents from the Department of State and the Department of the Army. Thus far, we have been unsuccessful but are continuing our efforts and will forward the documents as soon as they are received.

Respectfully,

For the Attorney General

FILED
BY RR
On DEC 8 1953

Alex Campbell

ALEXANDER M. CAMPBELL
Assistant Attorney General

14
15

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

AJC:JBH:mmv

146-28-1941

UNITED STATES
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

January 5, 1949



CITIZEN BANK
SAN FRANCISCO

JAN 11 1949

REFERRED TO De Wolfe

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Attention: Thomas E. DeWolfe

Re: United States v. Iva Toguri D'Aquino
Treason.

I am enclosing herewith for your information a copy of a memorandum dated December 28, 1948 from the Acting General Counsel of the Immigration and Naturalization Service together with the photostats received therewith.

Respectfully,

For the Attorney General

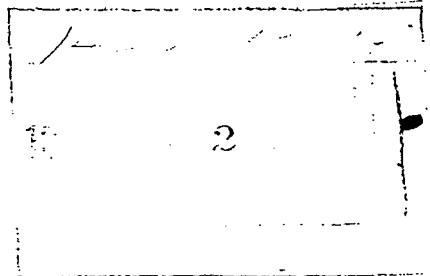
Alexander M. Campbell

ALEXANDER M. CAMPBELL
Assistant Attorney General

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BY
On DEC 8 1953

Enclosure No.
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1/11/49*



AmC:WEF:lr

146-28-1941

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13

January 5, 1949

Thomas E. DeWolfe, Esq.
c/o United States Attorney
Federal Building
San Francisco 1, California

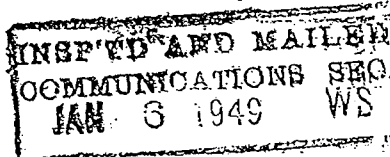
Dear Mr. DeWolfe:

Reference is made to your letter of December 29, 1948, in which you state that you would like to spend a week or so in Seattle before returning to Washington. This arrangement is agreeable to the Department and it is suggested that you spend as much time in Seattle as you wish to take at this time.

Please keep the Department advised as to the probable date of your return to Washington.

Respectfully,

For the Attorney General



ALEXANDER M. CAMPBELL
Assistant Attorney General

CC: Records
Chrono.
Mr. Foley

TVQ:JHH:vmg

146-28-1941

October 24, 1947

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J. M. F.

FILED
BY J...
OCT 31 1947

The Honorable
The Secretary of State
Washington 25, D. C.

My dear Mr. Secretary:

Attention: Mrs. R. B. Shipley,
Chief, Passport Division

This will acknowledge receipt of your letter of October 20, 1947, your file F130-Aquino, Ikuko D^e, concerning Mrs. D^eAquino's application for a passport to return to the United States.

After a careful analysis of the available evidence, this Department concluded that prosecution of this individual for treason was not warranted, and we so informed the War Department. Therefore, this Department will have no objection to the issue of a passport to Mrs. D^eAquino.

Respectfully,

For the Attorney General

T. VINCENT QUINN,
Assistant Attorney General

CC: Records ✓
Chron.
Mr. Hogan

SENT BY MESSENGER
COMMUNICATIONS SECTION
OCT 28 1947 JGL

JRH

AM

Office of the Clerk
U. S. Court of Appeals
For the Ninth Circuit
San Francisco 1, Calif.

RECEIVED
JAN 15 1952
CRIMINAL DIVISION

January 14, 1952

Hon. James M. McInerney,
Assistant Attorney General,
Department of Justice,
Washington, D. C.

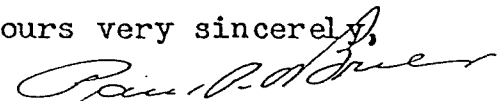
Nb. 12383
D'Aquino vs. U. S. A.

Dear Mr. McInerney:

I have your favor dated the 5th instant, (JMM: JWK:ae 146-28-1941) and to advise that I have this day delivered to the United States Attorney at San Francisco, the Reporter's Transcript in above cause, consisting of 56 volumes, with instructions to the United States Attorney that it be forwarded by air express to you today. Also, photostatic copies of the United States and Defendant's are included in the package.

Will you be good enough to acknowledge receipt of the matter, at your convenience, and oblige

Yours very sincerely,



Paul P. O'Brien,
Clerk.

O'B:C

File 12383

146-28-1941	
DEPARTMENT OF JUSTICE	
1	APR 17 1952
CRIMINAL DIVISION	

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an

The Director, Federal Bureau of Investigation
Theron L. Gaudle, Assistant Attorney General,
Criminal Division
IWA IKUKO TQURI, was:
Treason

January 23, 1947
TLG:JRH:vng
146-28-1941

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RECEIVED

This will acknowledge receipt of your memorandum of January 17, 1947, concerning the above captioned case.

The Criminal Division has no objection to your disposing of Items 1 and 2 of your memorandum in any manner you see fit.

With regard to Item 3, it is suggested the War Department be consulted to determine whether or not they have any use for this photographic copy. If they have not, it is suggested that this material be disposed of in a manner consistent with the security of classified documents.

CC: Records ✓
Chron.
Mr. Hogan

FILED
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JAN 28 1947

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SIGNED AND SENT BY
MESSENGER
JAN 23 1947
DIVISION OF RECORDS
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TLC:JBH:vng

146-28-1941

October 9, 1946

Your Ref: MID 201 Toguri,
Iva (Tokyo Rose)

Lt. Colonel C. B. Smith, U.S.C.
Chief, Washington Liaison Desk
Strategic Section
Military Intelligence Division
War Department General Staff
Washington 25, D. C.

Dear Colonel Smith:

This will acknowledge receipt of your letter of October 8, 1946, concerning Iva Ikuko Toguri, alias Tokyo-Rose.

By letter dated October 1, 1946, we advised Colonel David Marcus, Chief of War Crimes Branch, Civil Affairs Division, that the Department of Justice felt the evidence presently available does not warrant prosecution for treason, and therefore it is no longer desired that Toguri be retained in custody.

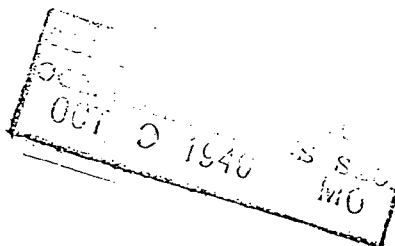
I have today received a communication from Colonel Marcus to the effect that Tokyo had been notified by cable.

Respectfully,

For the Attorney General

THELON L. CAUDLE,
Assistant Attorney General

CC: Records ✓
Chron.
Mr. Hogan



The Director, F.B.I.

October 4, 1946

Theron L. Gaudin, Assistant Attorney General,
Criminal Division

JBH:vng
146-28-1941

Iva Ikuko Toguri, alias Tokyo Rose, Orphan Annie, Ann,
Treason.

E. J. Mc...

Reference is made to your memorandum of September 27, 1946, concerning the above captioned case.

In reply to your request for an opinion as to prosecution, I desire to advise you that by letter dated October 1, 1946, Colonel David Marcus, Chief of the War Crimes Branch of the War Department, was advised that prosecution for treason on the evidence now available is considered unwarranted. The War Department was further advised that the Department of Justice no longer desires that Iva Ikuko Toguri be retained in custody.

CC: Records ✓
Chron.
Mr. Hogan

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TLC:JBH:vng

146-28-1941

October 1, 1946

Colonel David Marcus, Chief
War Crimes Branch
Civil Affairs Division
War Department
Washington 25, D. C.

Dear Colonel Marcus:

Re: Iva Ikuko Toguri, with aliases
Tokyo Rose, Orphan Annie, Ann;
Treason

A careful analysis of all the available evidence in this case has been conducted by the Criminal Division. The conclusion has been reached that on the facts presently available, prosecution for treason is not warranted. Therefore, the Department of Justice no longer desires that Iva Ikuko Toguri be retained in custody.

Of course, in the event that additional evidence is obtained at a later date, the entire question of prosecution can be reopened and reconsidered.

Respectfully,

For the Attorney General

THERON E. GAUDLE,
Assistant Attorney General

CC: Records ✓
Chron.
Mr. Hogan

Office Memorandum • UNITED STATES GOVERNMENT

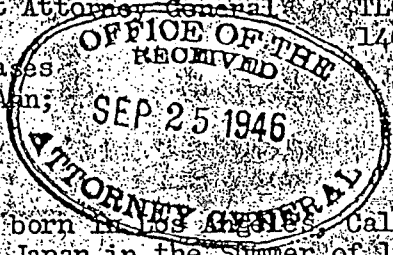
TO : The Attorney General

DATE: September 24, 1946

FROM : Theron L. Caudle, Assistant Attorney General

TLC:SGE:DTJ
146-28-1941

SUBJECT: IVA IKUKO TOGURI, with aliases
Tokyo Rose, Orphan Annie, Ann;
Treason



TLC

This subject was born in Los Angeles, California, on July 4, 1916. She went to Japan in the summer of 1941 for the purpose of caring for an invalid aunt and was unable to return to the United States prior to the outbreak of the war. In November, 1943 she obtained employment as an announcer on a program known as the Zero Hour over Radio Tokyo.

Toguri was taken into custody by our military authorities in Japan and has been identified in newspaper accounts as "Tokyo Rose." This was the name given by American troops to a woman broadcaster over Radio Tokyo whose program consisted of popular American music, interspersed with news broadcasts, remarks inferring that the soldiers' loved ones at home were unfaithful and announcements concerning the movements of our land, sea and air forces. These broadcasts were intended, of course, to cause discontent among our soldiers and to convey the impression that the Japanese had advance knowledge of our war strategy. It appears further that no broadcaster over Radio Tokyo was announced as "Tokyo Rose" and that several women announcers of programs of this type were given that name indiscriminately by the American troops.

Considerable investigation has been conducted in this case and it appears that the identification of Toguri as "Tokyo Rose" is erroneous, or, at least, that her activity consisted of nothing more than the announcing of musical selections. She has denied making any other type of broadcasts and radio technicians and fellow broadcasters also stated that this was the extent of her activity, with the exception of two or three who said that remarks on her broadcasts were anti-United States. They did not reveal in what respect her statements were anti-United States, however, or give any specific remarks or specific or approximate dates that they were made. A few recording cylinders of her broadcasts and a large number of her scripts were located, and they, as well as the transcripts of the only two broadcasts of her program which were monitored by the Federal Communications Commission, do not disclose that she did anything more than introduce musical records. In addition, it appears that "Tokyo Rose" was broadcasting prior to the date of Toguri's employment.

It is my opinion that Toguri's activities, in view of the innocuous nature of her broadcasts, are sufficient to warrant her prosecution for treason.

DEPARTMENT OF JUSTICE
OCT 1 1946
DIVISION OF RECORDS

CRIM.-INTERNAL SECURITY-SEC

LD 5

States Attorney at Los Angeles concurs in this opinion. I believe that the case should be closed, subject, of course, to being reopened in the event more information is received at a later date, and that the War Department should be advised that we no longer desire her retention in custody.

Office Memorandum • UNITED STATES GOVERNMENT

TO: Theron L. Caudle, Assistant Attorney General, Criminal Division
 DATE: September 19, 1946
 FROM: Nathan T. Elliff, Chief, Internal Security Section
 NTE:JBH:vng
 146-28-191
 SUBJECT: IVA IKUKO TOGURI, with aliases
 Tokyo Rose, Orphan Annie, Ann - Treason

NTE
TLC

Reference is made to my memorandum to you dated May 15, 1946, in which I analyzed the available evidence and expressed my conclusion that this is not a case for prosecution for treason. Inasmuch as that memorandum was rather complete I will not repeat it here. It need merely be stated that the evidence will undoubtedly prove the subject's American citizenship and the fact that she broadcast for the Japanese for a salary. However, the available scripts and the testimony of the majority of witnesses indicate that her broadcasts were innocuous, and could not be considered giving aid and comfort to the enemy.

The War Department has been inquiring at intervals as to what disposition is to be made of this case. Before communicating with the War Department, it was decided to solicit the opinion of the United States Attorney at Los Angeles because he has been studying this matter since its inception. By a telegram dated September 13, 1946, he has advised that he does not feel the evidence is adequate to recommend a treason prosecution. We concur in his opinion and suggest that this matter be considered closed at this time, and that the War Department be advised that we no longer desire that the subject be retained in custody. Of course, if additional information is received at a later date, the entire case can be reconsidered.

146-28-191
 DEPARTMENT OF JUSTICE
 OCT 1 1946
 DIVISION OF RECORDS
 CRIM - INTERNAL SECURITY SEC.
 LDM

Department of Justice
Telegram

DEPARTMENT OF JUSTICE
DIVISION OF RECORDS
TELEGRAPH OFFICE

1946 SEP 13 PM 2:10

WU Q129 GOVT DL PD

WUX WASHINGTON DC SEP 13 1946 131P

ATTORNEY GENERAL DEPT OF JUST

RE YOUR WIRE IVA TOGURI FURTHER INVESTIGATION MENTIONED IN
CORRESPONDENCE HAS NOT STRENGTHEN THIS CASE PD WE FEEL
EVIDENCE INADEQUATE PD RECOMMEND TREASON PROSECUTION BE
DECLINED PD END

U S ATTORNEY LOSA CALIF 131700Z

208P.

131700Z.

F.L. MacC.

R Q128-129 DJ

SEP 13 3 26 PM '46

CRIMINAL DIVISION
RECEIVED

46-28-1941
DEPARTMENT OF JUSTICE
SEP 13 1946 M.
DIVISION
CRIM. - INTERNAL SECURITY SEC

P. R. G.
RECORD

FILE - JBH

Hogan

Washington, D. C.
September 10, 1946

DEPARTMENT OF JUSTICE
DIVISION OF RECORDS
TELEGRAPH OFFICE

TLC:JBH:mg
146-28-1941

L. J. B.

RECORD
B.I.R.

night letter

1946 SEP 12 PM 6 10

JAMES M. GARTER
UNITED STATES ATTORNEY
LOS ANGELES, CALIFORNIA

IVA IKUKO TOGURI TREASON. WAR DEPARTMENT IS PRESSING CRIMINAL DIVISION
FOR IMMEDIATE ADVICE AS TO DISPOSITION OF THIS CASE. SUBJECT STILL IN
ARMY'S CUSTODY. REQUEST YOUR RECOMMENDATION ON PROSECUTION AT EARLIEST
POSSIBLE DATE.

THEODORE L. GAUDIN
ASSISTANT ATTORNEY GENERAL

CC: Records ✓
Chron.
Mr. Hogan

U.S. DEPT. OF JUSTICE
SEP 12 1946

FILE COPY

TLC:JBH:vng

146-28-194

146-28-194

August 27, 1946

James M. Carter, Esq.
United States Attorney
Los Angeles 12, California

~~CONFIDENTIAL~~

Dear Mr. Carter:

Re: Iva Ikuko Toguri, with aliases,
Treason.

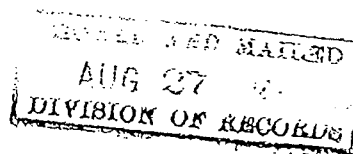
I would appreciate receiving from you as soon as it
is convenient an expression of your opinion on the desirability
of prosecuting the subject.

Respectfully,

For the Attorney General

HERON L. CAUBLE,
Assistant Attorney General

CC: Records ✓
Chron.
Mr. Hogan



The Director, FBI.

Theron E. Caudle, Assistant Attorney General,
Criminal Division
IWA IKUKO TOGURI, with aliases; Treason

June 13, 1946

JBH:vag
146-28-1941

E. A. M.

Reference is made to your memorandum of June 7, 1946, and the enclosed memorandum.

In reply to your inquiry, this is to advise that the desirability of prosecution is being taken up at the present time with the United States Attorney in Los Angeles. You will be advised as soon as a decision is reached.

CC: Records ✓
Chron.
Mr. Hogan

John A.

1/1/46

RECEIVED
14 1946

LD

TLC:JSH:vng

June 18, 1946

146-28-1941

P. R. G.

The Adjutant General
War Department
Washington, D. C.

Dear Sir:

This will acknowledge receipt of your letter of June 6, 1946, your file AGAO-S-SPJHT 333-5 (1 May 46), concerning Ikuko (Iva) Toguri "Tokyo Rose".

Please be advised that the question of prosecution of this individual is now being considered, and you will be notified of the decision at the earliest possible moment.

Respectfully,

For the Attorney General

THELSON L. CANDLE,
Assistant Attorney General

SIGNED AND SENT
MESSENGER
JUN 19 1946
DIVISION OF RECORDS
5

CC: Records ✓
Chron.
Mr. Hogan

MG
JOS/10

88

TLC:JBH:vng

June 4, 1946

~~146-28-191~~

146-28-1441 *EDM.*

Charles H. Carr, Esq.
United States Attorney
Los Angeles 12, California

Dear Mr. Carr:

Re: Iva Ikuko Toguri, with aliases
Tokyo Rose, Orphan Annie, Ann -
Treason.

There is enclosed herewith a copy of a memorandum on the question of prosecution of the subject prepared in the Criminal Division.

I would appreciate receiving your comments on the views contained in this memorandum as well as your opinion on the desirability of prosecuting the subject.

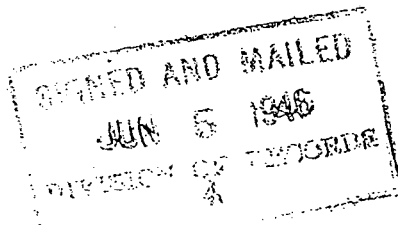
Respectfully,

For the Attorney General

THERON L. CAUDLE,
Assistant Attorney General

Enc. #136429.

CC: Records ✓
Chron.
Mr. Hogan



JMM:TED:ae

146-28-1941

January 5, 1952

Chauncey F. Tramutolo, Esq.
United States Attorney
422 Post Office Building
7th and Mission Streets
San Francisco, California

Attention: Edgar R. Bonsall, Esq.
Assistant U. S. Attorney

Re: D'Aquino v. United States

Dear Mr. Tramutolo:

Reference is made to the above-entitled treason prosecution recently pending on appeal in the Court of Appeals for your Circuit.

The Department acknowledges receipt of and thanks you for yours of 27 December 1951 with which you enclosed a copy of the opinion of the Court of Appeals denying appellant's petition for rehearing.

Please rest assured that your cooperation in keeping the Department abreast of the developments in this litigation is greatly appreciated.

Respectfully,

For the Attorney General

JAMES M. McINERNEY
Assistant Attorney General

cc: Records
Chinn
Mr. DeWolfe

RECEIVED AND MAILED
JAN 10 1952
COMMUNICATIONS SECTION

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Ruf

Waf
[Handwritten signature]

JMM:TED:cd

146-28-1941

October 31, 1951

Ex. Sub. 1

AIR MAIL

Chauncey Tramutolo, Esquire
United States Attorney
San Francisco, California

Re: Iva Toruri D'Aquino v. United States

Dear Mr. Tramutolo:

Reference is made to the above entitled treason prosecution presently pending on appeal in the Court of Appeals for the 9th Circuit.

The Department acknowledges receipt of and thanks you for your wire under date of October 10 advising that the judgment and sentence below have been affirmed.

Please advise the Department promptly upon the filing of any petition for rehearing herein, and rest assured that your cooperation in the premises is greatly appreciated by the Department.

Respectfully,

For the Attorney General

JAMES M. McDERMOTT
Assistant Attorney General

RECEIVED
COMMUNICATIONS SECTION
NOV 1 1951
U.S. DEPT. OF JUSTICE

cc: Records ✓
Chron

Messrs:
DeWolfe
Knapp

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WAP

*RSE **

ad lxx