

DECLASSIFIED

Authority AJND 883076

DECLASSIFIED  
Authority AND 83678

DECLASSIFIED

Authority WJD 883078

PHILIPPINE ARREARS IN PAY  
AS IT PERTAINS TO  
PHILIPPINE SCOUTS

STUDY - 10

13 MAY 1955

## MEMORANDUM FOR RECORD:

SUBJECT: Study of Philippines Arrears in Pay Program As It Pertains to  
Philippine Scouts

1. Problem: Whether individuals are entitled to status under the provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation. Limitation to entitlement to status under Section 2 of the Missing Persons Act is interpreted primarily by paragraph 1g, Section IV, War Department Plan for Casualty Administration Upon the Reoccupation of the Philippines (7 Nov 44) and/or Staff Memorandum #14 (27 Dec 45), copies attached. To these two basic policies, must be also considered the modification developed during the years 1946 through 1948 by decisions of the Secretary of the Army's Personnel Board, The Adjutant General, and The Judge Advocate General's opinion, JAGA 1947/8785 (17 Nov 47), as will be brought out in the following summary:

2. Facts and present determinations: (if made at this time)Colonel Pastor Martelino, OIA 670

a. Original determination: Commanding General, United States Army Forces, Western Pacific, 24 Nov 45, that subject individual was not in a casualty status 1 October 1942 to 22 December 1944.

b. The Adjutant General's redetermination (Colonel George F. Herbert) of 30 January 1946 over-ruling above determination and holding S/I missing in action 7 May 1942 to 30 January 1946, based on additional information (✓) received from Generals McCaw and Fellers.

c. Present determination: NICS 6 October 1942 to 21 December 1944.

Colonel Amado Martelino, OIA 881

a. Original determination: CG, USAF, WESPAC 16 May 46, that S/I was not in a casualty status 15 Sep 42 to 27 Mar 45.

b. As a result of S/I's appeal, the Secretary of the Army's Personnel Board decided on 17 Apr 47 that S/I was in a casualty status 15 Sep 42 to 27 Mar 45 based on early separation from Puppet Agency, and that S/I suffered more than normal deprivation (TAG recommendation to this effect on 9 Apr 47).

c. Present determination: NICS 15 Sep 42 to 27 Mar 45.

Colonel Rafael L. Garcia. 04 477

a. Original determination: CG, USAF, WESPAC, 16 May 46, that S/I was not in a casualty status 16 Sep 42 to 17 May 45.

b. As a result of S/I's appeal, Secretary of the Army's Personnel Board decided on 26 Mar 47 that S/I was in a casualty status during period 16 Sep 42 to 17 May 45, based on additional evidence presented by Colonel Garcia and verbal advice of JAGO. (TAG recommendation to this effect on 21 Feb 47).

c. Present determination: NICS 6 Jun 42 to 17 May 45.

Lieutenant Colonel Victor Z. Gomez. 014 876

a. Original determination: CG, USAF, WESPAC, 23 Apr 46, that S/I was not in a casualty status for period 1 Oct 42 to 19 Jan 45.

b. Secretary of the Army's Personnel Board decided on 2 Dec 47 that S/I was in a casualty status during period 1 Oct 42 to 20 Jan 45. Reference made to JAG opinion JAGA 1947/8785 of 17 Nov 47.

c. Present determination: NICS 1 Oct 42 to 19 Jan 45.

Lieutenant Colonel Salvador Reyes. 08 614

a. Original determination: CG, USAF, WESPAC, 16 May 46, that S/I was not in a casualty status during period 5 Oct 42 to 19 Dec 44.

b. As a result of S/I's appeal, Secretary of the Army's Personnel Board decided on 1 Mar 48 that S/I was in a casualty status for period 5 Oct 42 to 19 Dec 44. (TAG recommendation to this effect on 12 Feb 48 in view of similar case of Lt. Col. V. Z. Gomez and JAG opinion JAGA 1947/8785 of 17 Nov 47).

c. Present determination: NICS 1 Nov 42 to 19 Dec 44.

Lieutenant Colonel Ricardo Poblete. 015 661

a. Original determination: CG, USAF, WESPAC, 16 May 46, that S/I was not in a casualty status 19 Apr 42 to 14 May 45.

b. As a result of S/I's appeal, Secretary of the Army's Personnel Board decided on 20 May 48 that S/I was in a casualty status 19 Apr 42 to 24 May 43 and NICS 25 May 43 to 14 May 45. (TAG recommendation to this effect 6 Apr 48, commenting on fact that he lived on his own savings after release from POW camp; then was paid \$150.00 per month by Department of Justice, \$200.00 per month by Department of Interior and \$220.00 per month as Mayor of Cavite, plus \$10.00 per day as National Assemblyman. Mention also made of modification of policies since date of original determination based on several appeals to

Secretary of the Army's Personnel Board and JAG opinion in Gomez case).

c. Present determination: NICS 1 May 42 to 14 May 45.

Lieutenant Colonel Emmanuel S. Cepeda, 019 297

a. Original determination: CG, USAF, WESPAC, 16 May 46, that S/I was not in a casualty status 22 Nov 42 to 15 Dec 44. Redetermination Philippines-Ryukyus Command 18 Aug 47, that S/I was NICS 8 Mar 43 to 15 Dec 44.

b. As a result of S/I's appeal 8 Jan 48, the Secretary of the Army's Personnel Board decided on 18 May 48 that S/I was in a casualty status during period 8 Mar 43 to 15 Dec 44. TAG recommendation to this effect, 28 Apr 48, based on his antagonism for the Japanese and valuable assistance rendered to the guerrillas).

c. Present determination: NICS 13 May 42 to 15 Dec 44.

NO REPT. MADE

Lieutenant Colonel Pio O. Caluya, 014 883

a. Original determination: USAFFE, 6 Jun 45, that S/I was absent from post of duty during period 1 Dec 42 to 5 Feb 45. TAG held on 9 Jul 45 that S/I was not absent from post of duty but NICS for this period.

b. As a result of S/I's appeal, Secretary of the Army's Personnel Board decided in May 1948 that subject was in a casualty status from 1 Dec 42 to 5 Feb 45.

c. Present determination: NICS 1 Dec 42 to 5 Feb 45.

Colonel Juan P. Moran, 014 791

a. Original determination: CG, USAF, WESPAC, 27 Dec 45, that S/I was not in a casualty status for period 1 Aug 42 to 25 Oct 44. TAG presumptive date of death on 1 Feb 46 gave status through 1 Feb 46.

b. Redetermination resolved case by date of death on 7 Jan 45 and followed the practice obtaining at that time (Philippines Command 6 Oct 48) and concluded S/I was in a casualty status from 8 Dec 41 through presumptive date of death, 1 Feb 46.

c. Present determination: NICS 1 Aug 42 to 26 Oct 44.

Major Alejandro D. Garcia, 015 223

a. Original determination: CG, USAF, WESPAC, 19 Mar 46, that S/I was not in a casualty status 31 Oct 42 to 21 Dec 44. TAG issued Report of Death on 21 Mar 46 for entire period, and then on 17 Jan 47 issued a Corrected Report of Death showing S/I NICS for period 31 Oct 42 to 21 Dec 44.

b. ~~No~~ appeal from widow. Records indicate payment to estate in the amount of \$20,538.27 on 30 Jan 47 (GAO Claim #065 4245 and GAO Certificate #1505689). Payment evidently made on basis of TAG Report of Death of 21 Mar 46.

c. Present determination: NIGS 31 Oct 42 to 21 Dec 44.

Brigadier General Vicente Lim, O3 722 RA (RS), Retd. and O 112 201 (PA)

a. Original determination: CG, Philippines Command, 6 Mar 48, that S/I was in a casualty status 8 Dec 41 to 11 Nov 45 while in Army of the Philippines. No record of recall to active duty as Philippine Scout in the Regular Army.

b. Adjutant General Records Depository report to Veterans Administration on 4 Jan 50 that S/I was NIGS for period 2 Jul 42 to 4 Jun 44. Killed in action 31 Dec 44 (executed by the Japanese).

c. Present determination: In casualty status during period 2 Jul 42 to 4 Jun 44 based on sickness and material restraint.

3. Discussion: Cases are listed in chronological order in which they were redetermined either by The Adjutant General or the Secretary of the Army's Personnel Board. The first case where Washington over-ruled a determination made by the Field Commander was in the case of Colonel Pastor Martelino, in which TAG on 30 Jan 46 gave status for entire period. It is noted that in those cases where TAG made a recommendation to the Secretary of the Army's Personnel Board (Amado Martelino, Rafael L. Garcia, Salvador Reyes, Ricardo Poblete and Emmanuel Cepeda) this became the finding of the Secretary of the Army's Personnel Board. The first case in which JAG opinion was requested was that of Colonel Victor Z. Gomez, after the cases of Pastor Martelino, Amado Martelino and Rafael L. Garcia had already been decided by either TAG or S/A's Personnel Board. In connection with JAG opinion, JAGA 1947/8785 of 17 Nov 47, case of Gomez, statement is made that "evidence contained in present file would substantiate an administrative determination that Lieutenant Colonel Gomez was in a casualty status, as provided in Section 2 of the mentioned act, during the periods in question." It is believed that greater credence should be given to information furnished in original affidavit, all other things also being considered. In the case of Lieutenant Colonel Ricardo Poblete, O15 661, S/I made an appeal to S/A's Personnel Board on 9 Jan 48 for casualty status during the period previously determined NIGS, 19 Apr 42 to 14 May 45, claiming his case was like that of Colonel Rafael L. Garcia. TAG recommended 6 Apr 48 to S/A's Personnel Board that status be given for period 19 Apr 42 to 24 May 43 and NIGS for period 25 May 43 to 14 May 45. Since such an action was taken by the S/A's Personnel Board in this case confirming NCS period from 25 May 43 to 14 May 45, it would seem equally justified to confirm NCS periods in each of the cases of Amado Martelino, Rafael Garcia, Victor Z. Gomez, Salvador Reyes, Emmanuel Cepeda, Pio Q. Caluya and Alejandro Garcia, since the cases are alleged to have

been similar. No attempt was made by TAG or S/A's Personnel Board to distinguish between casualty status and non-casualty status before or after the Poblete case, yet that which was considered true in the Poblete case should also be true in these other cases.

4. It is recommended that the policies outlined in paragraph 1g, Section IV, War Department Plan for Casualty Administration Upon the Reoccupation of the Philippines (7 Nov 44) and Staff Memorandum #14 (27 Dec 45) be reiterated as existing policies which interpret entitlement to arrears in pay under provisions of Section 2 of the Missing Persons Act. It is not believed that any of the foregoing, except General Lim, suffered serious deprivation or material restraint that was greater than that generally suffered by other residents of the Philippines (Section IV, paragraph 1g, WD Plan, 7 Nov 44) during the periods originally determined as non casualty status. In addition, there is no evidence to indicate that they actively joined a guerrilla organization or actively participated in the anti-Japanese movement (Staff Memo #14, 27 Dec 45) during the non casualty status periods involved.

L4 Incl

1. Cpy par. 1g, Sec. IV, WD Plan, 7 Nov 44
2. Cpy Staff Memo #14, 27 Dec 45
3. Cpy JAG opinion JAGA 1947/8785, 17 Nov 47
- 4-14. Eleven statements

Addendum:

In the case of Gubaton, Federico, 6 739 640, the Chief, Military Affairs Division, Judge Advocate General's Office, C #3 20 Aug 54, held that, "It is the opinion of this office that a finding of casualty status after a period of 'no status' under the Act legally may be made only where the facts and circumstances clearly indicate a resumption of casualty status (e.g., service with a recognized guerrilla unit, resumption of a prisoner of war status)."

Letter, TAG, 29 May 47 (to Commanding General, Philippines-Ryukyus Command in connection with somewhat similar case of Garcia, Rafael L. (Colonel) states that the Garcia case, as well as other cases considered by the War Department, are decided on their individual merits and are not to be construed as amending established policies.



CHRONOLOGICAL  
ORDER

ACCORDING TO  
HIGHER APPEAL APPROVAL

DECLASSIFIED

Authority NND 883078

570 (PA) (certificates  
dated 15 July 1942)  
to status under provi-  
: the entire period of  
place it that this is  
salary not enough and

United States Military  
dated on 15 June 1920; -  
(Philippine Scouts)

with rank from 2 July 1920, and ordered to proceed to Philippine  
Department, Manila, Philippines for duty, par. 34, SO No. 154-0,  
WD 1 July 1920. Accepted appointment 2 July 1920.

b. At outbreak of war subject was serving as Chief of Staff  
of the 31st Division (Philippine Army) with rank of major. Promoted  
to lieutenant colonel, AUS, 11 Dec 41. Accepted appointment  
17 Dec 41. Promoted to colonel, AUS, 1 Apr 42.

c. Brigadier General Manuel A. Roxas (PA) advises in letter of  
27 May 45 that he asked subject why he did not escape to his home  
province of Capias and join the guerrillas, and Colonel Martelino  
advised that some released officers and enlisted men who had  
attempted to join the guerrillas on Panay had not been well received.  
General Roxas authorized subject to employ agents to keep a watch  
on coastal defenses and artillery and gave him about ₱60,000.00 to  
finance these surveillance efforts. Subject was imprisoned in  
latter part of 1944. Subject stated he was eager to escape from  
service of Japanese and join the guerrillas at the proper time.  
General Roxas believed subject remained in Manila because of his  
feeling of responsibility to perform aforementioned duties.

d. Luis A. Fernandez, a friend of Colonel Martelino, in affi-  
davit of 9 June 1945 states he asked subject why he did not leave  
Manila and he said that he was closely watched and that he was  
needed in Manila.

e. Affidavit of subject's wife, Mrs. Pas L. Martelino,  
16 June 1945, states subject escaped from Bataan on 10 April 1942 -  
and that he remained in hiding with his family in Manila for about  
five months. Being unable to escape detection any longer, he  
surrendered to the Japanese on 19 Sep 42 and was forced to work for  
the Puppet Government from October 1942 to July 1943, when he  
secured release from such service because of feigned sickness. On  
22 Dec 44 he was picked up by the Japanese Military Police.

(Killed in Action (deserted by the Japanese) at Manila on 8 Jan 45)

COLONEL PASTOR MARTELINO, 012 670 ✓

1. Problem: Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Pastor Martelino appointed a cadet, United States Military Academy, West Point, 23 July 1918 and graduated on 15 June 1920; appointed second lieutenant in Regular Army (Philippine Scouts) with rank from 2 July 1920, and ordered to proceed to Philippine Department, Manila, Philippines for duty, par. 34, SO No. 154-O, WD 1 July 1920. Accepted appointment 2 July 1920.

b. At outbreak of war subject was serving as Chief of Staff of the 31st Division (Philippine Army) with rank of major. Promoted to lieutenant colonel, AUS, 11 Dec 41. Accepted appointment 17 Dec 41. Promoted to colonel, AUS, 1 Apr 42.

c. Brigadier General Manuel A. Roxas (PA) advises in letter of 27 May 45 that he asked subject why he did not escape to his home province of Capi and join the guerrillas, and Colonel Martelino advised that some released officers and enlisted men who had attempted to join the guerrillas on Panay had not been well received. General Roxas authorized subject to employ agents to keep a watch on coastal defenses and artillery and gave him about ₱60,000.00 to finance these surveillance efforts. Subject was imprisoned in latter part of 1944. Subject stated he was eager to escape from service of Japanese and join the guerrillas at the proper time. General Roxas believed subject remained in Manila because of his feeling of responsibility to perform aforementioned duties.

d. Luis A. Fernandez, a friend of Colonel Martelino, in affidavit of 9 June 1945 states he asked subject why he did not leave Manila and he said that he was closely watched and that he was needed in Manila.

e. Affidavit of subject's wife, Mrs. Paz L. Martelino, 16 June 1945, states subject escaped from Bataan on 10 April 1942 and that he remained in hiding with his family in Manila for about five months. Being unable to escape detection any longer, he surrendered to the Japanese on 19 Sep 42 and was forced to work for the Puppet Government from October 1942 to July 1943, when he secured release from such service because of feigned sickness. On 22 Dec 44 he was picked up by the Japanese Military Police.

DECLASSIFIED  
 Authority AND 883078

f. Lieutenant Enrique O. Galang, Infantry (PA) (certificate of Major Ricardo C. Galang, Infantry, AUS dated 15 July 1945) states Colonel Martelino advised he was apparently under no suspicion at all by the Japanese and would consider it imprudent to resign without cause, as this would arouse the suspicion of the Japanese. Colonel Martelino advised of his plans at that time to take his family to Iloilo on the pretext of salary not enough and because of his health.

g. Eduardo Martelino, son of subject individual, states in affidavit of 7 August 1945 that he left home (Manila) at the end of May 1942 and joined a guerrilla band of good repute in a week's time (Hunters ROTC). In January 1943 he joined the guerrillas in the Baguio area, meanwhile keeping contact with his father in Manila. Subsequently joined Luson Guerrilla Armed Forces in Mamos, Nueva Ecija. On advice of his father he went to Panay Island in September 1943 to continue his guerrilla activity. Colonel Martelino wanted to go with his son but felt he could not leave the city unnoticed. Son states Colonel Peralta sent an invitation to his father by Attorney Tito Garcia to come down to Panay. He did not know why his father turned down Colonel Peralta's offer unless he considered his underground activities in Manila more important.

h. Affidavit of Maria Martinez, 17 August 1945, guerrilla, states S/I accepted position with Puppet Government as result of indirect coercion on part of Japanese, and that he discussed guerrilla activities with her.

i. Determination of Commanding General, United States Army Forces, Pacific, APO 500 dated 12 August 1945 (not signed) and Commanding General, United States Army Forces, Western Pacific, APO 707 dated 24 November 1945:

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Jul 40	11 Dec 41 ✓
Lieutenant Colonel	11 Dec 41 (accepted 17 Dec 41)	1 Apr 42 ✓
Colonel	1 Apr 42	8 Jan 45 ✓

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Beleaguered	8 Dec 41	8 Apr 42 ✓
Missing in Action	9 Apr 42	18 Sep 42 ✓
Prisoner of War	19 Sep 42	30 Sep 42 ✓
Not in Casualty Status	1 Oct 42	22 Dec 44 ✓
Prisoner of War	22 Dec 44	8 Jan 45 ✓
(Killed in Action (executed by the Japanese) at Manila on 8 Jan 45) ✓		

j. Letter of widow of S/I to General MacArthur, 15 Aug 45, advising him her husband's loyalty is being challenged and if proved, she would therefore receive no pay. ✓

k. Letter, Brigadier General E. J. McGaw, Asst. Chief of Staff, G-3, APO 707 dated 14 Dec 45 to Colonel George F. Herbert, Chief, Casualty Branch, TAGO, protesting determination made by CG, USAFPAC (actually USAF, WESPAC) denying pay and allowances for period 1 Oct 42 to 22 Dec 44 in case of S/I, his West Point classmate. ✓ General McGaw believes recommendations made in this case were based on misinterpretation of War Department Plan for Casualty Administration Upon Reoccupation of the Philippines (7 Nov 44), and adds that the case of Lieutenant Colonel Pio Q. Caluya could not be used as a guide in this case. ✓ His argument was that since subject lost his life, a more liberal application of WD policy should be made. ✓ Also further points: 1. Accepted employment at insistence of Jorge Vargas; 2. General Roxas (PA) and Maria Martinez (guerrilla) statements S/I engaged in spying on Japanese and reporting information to guerrillas; 3. S/I resigned Japanese employment as soon as he could; 4. Suffered torture and death without acceding to Japanese demands. ✓

l. Memo for Record of Colonel Herbert, Chief, Casualty Branch, TAGO, 5 Jan 46, re: ✓ phone call from Brigadier General Bonner Fellers of General MacArthur's staff: General Fellers advised that General MacArthur thoroughly sympathetic with case of Martelino and in favor of maximum benefits to widow. ✓ Colonel Herbert advised of letter from General McGaw and his answer of 4 Jan 46 that favorable action would undoubtedly be taken by the WD Board on statements made by General McGaw and himself. ✓

m. Redetermination made by Casualty Branch, TAGO, 30 Jan 46 in view of additional information received from Generals McGaw and Fellers and careful study of all evidence submitted by USAF, WESPAC: ✓

Beleaguered	8 Dec 41 - 6 May 42 ✓
Missing in Action	7 May 42 - 30 Jan 46 ✓

(Received evidence of death on 30 Jan 46 considered sufficient to establish conclusively the fact that S/I was killed in action (executed by the Japanese) on 8 January 1945 in Manila, Philippines). ✓

n. TAG advised CG, USAF, WESPAC on 30 Jan 46 of foregoing. Widow advised 30 Jan 46 and General McGaw advised 6 Feb 46. General Fellers similarly advised on 11 Feb 46. ✓

o. CG, USAF, WESPAC on 27 Feb 46 requested TAG to furnish copy of redetermination of 30 Jan 46 and also of evidence furnished by Generals McGaw and Fellers. TAG forwarded copy of redetermination 30 Jan 46 to CG, USAF, WESPAC on 22 Mar 46. ✓

p. On 5 Feb 46 General McGaw forwarded four affidavits to Colonel Herbert, Chief, Casualty Branch, TAGO for consideration in connection with the case of subject individual. Casualty Branch, TAGO acknowledged receipt of inclosures on 27 Feb 46, stated that General McGaw was advised of redetermination made in this case on 6 Feb 46 and that inclosures would be filed with subject individual's records to support the determination already made.

Inclosure 1: Affidavit of Esteban de Leon, 18 Jan 46, that S/I was forced to work for Puppet Government.

Inclosure 2: Affidavit of Victorino Santiago, 30 Oct 45, restating information previously furnished.

Inclosure 3: Affidavit of Wenceslao Bayhan, 31 Jan 46, general discussion of USAFFE officers' guerrilla activities.

Inclosure 4: Affidavit of subject's brother, Lieutenant Colonel Amado Martelino, restating information previously furnished.

q. Radio from AFWESPAC (STYER) to WASH (SMITH) 12 Nov 45, policy: Individual NICS from date he accepts appointment or enters into service controlled by Japanese Government or Puppet Government until he returns to full military control or definitely enters service of recognized guerrilla unit. Exception for employment under Japanese agencies entered into at direction of recognized guerrilla leaders or officer of AUS of recognized loyalty.

r. Letter (Gen) Bonner Fellers, Veteran Division, Republican National Committee, Washington, D. C. 1 June 1950, to General Omar Bradley's aide, Colonel Willis S. Matthews, protesting VA refusal to make complete payment and asking that Army require Veterans Administration to adhere to determination made by Department of the Army on 30 Jan 46.

s. Letter, TAG to Administrator of Veterans Affairs, Washington 25, D. C., 14 June 1950, inclosing official statement of service and a copy of Review and Determination of Status dated 24 Nov 45 prepared by Headquarters, USAF, WESPAC.

t. In the case of Gubaton, Federico, 6 739 640, the Chief, Military Affairs Division, Judge Advocate General's Office, C #3 20 Aug 54, held that, "It is the opinion of this office that a finding of casualty status after a period of 'no status' under the Act legally may be made only where the facts and circumstances clearly indicate a resumption of casualty status (e.g., service with a recognized guerrilla unit, resumption of a prisoner of war status)."

3. Discussion: Original determination CG, USAF, WESPAC 24 Nov 45 held S/I not in a casualty status for period 1 Oct 42 to 22 Dec 44. Letter of widow to General MacArthur 15 Aug 45 advising her husband's loyalty being challenged and her consequent loss of pay. Letter, General McGaw to Colonel Herbert, Casualty Branch, TAGO protesting determination made by USAF, WESPAC. Memo for Record of Colonel Herbert 5 Jan 46, phone call General Fellers on General MacArthur's staff advising General MacArthur's interest in favor of full benefits for widow. Redetermination made by Casualty Branch, TAGO giving full status plus a little over a year more (8 Dec 41 - 30 Jan 46) based on evidence of General McGaw and General Fellers and careful study of evidence submitted by USAF, WESPAC. On 1 Jun 50 General Fellers, Veterans Division, Republican National Committee, Washington, D. C. protested to General Omar Bradley's aide regarding VA refusal to make full payment to widow and asking Department of the Army to require VA to adhere to Department of the Army determination. Letter, TAG, 14 Jun 50 to Administrator of Veterans Affairs, Washington, D. C. inclosing official statement of service and copy of USAF, WESPAC determination of 24 Nov 45.

While he evidently helped guerrilla units and individuals, there is no record to indicate that he actively joined a guerrilla force or actively participated in the anti-Japanese movement until date of capture, 22 Dec 44. There is no evidence of serious deprivation or material restraint during the period 1 Oct 42 to 21 Dec 44 which would be greater than that generally suffered.

It appears from the foregoing that there is no substantial difference between this case and that of Colonel Juan P. Moran. Subject individual of his own volition went to Manila after his escape from Bataan 10 Apr 42, even though he had opportunities to join guerrilla organizations elsewhere. His own son, Eduardo, records at least four guerrilla organizations which he joined. Colonel Peralta invited him to join guerrillas in Panay. General Roxas asked him why he did not join guerrillas in his home area around Capiz. He reported to the Japanese 6 Oct 42 and signed the oath required by the Japanese (Manila, Philippines). Lieutenant Enrique C. Galang records subject's statement that he was apparently under no suspicion at all by the Japanese. It is not apparent from the record that Generals McGaw and Fellers furnished any more evidence than was already of record and available to USAF, WESPAC in their determination of 24 Nov 45.

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as follows:

Beleaguered	8 Dec 41 - 8 Apr 42 (on Bataan)
Missing in Action	9 Apr 42 - 5 Oct 42 (date prior to oath certificate)
Not in casualty status	6 Oct 42 - 21 Dec 44
Prisoner of War	22 Dec 44 - 8 Jan 45 (date of death)
Absent in Pay Status Sec. 2, PL 490	9 Jan 45 - 24 Nov 45 (date of USAF, WESPAC determination)
(Killed in action (executed by the Japanese) on 8 Jan 45 at Manila, Philippines).	

COLONEL AMADO MARTELINO, 014 881

1. Problem: Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Appointed second lieutenant in the Regular Army (Philippine Scouts), Philippine Department, Manila, with rank from 1 Nov 21. Letter WD, TAGO 18 Nov 21. Accepted appointment on 21 Nov 21.

b. At outbreak of war subject was attached to 41st Field Artillery, 41st Division (PA) as Commanding Officer with rank of major under Brigadier General V. Lim.

c. Subject states in affidavit dated 6 Mar 46 that he escaped from Bataan on 10 Apr 42 with his older brother, Colonel Pastor Martelino. They proceeded to Manila to join their families and were in hiding until Japanese offer of amnesty in September 1942. In November 1942 accepted position in Bureau of Commerce, a Puppet Government agency. He quit this service on 31 Dec 43. Subsequently worked for Insular Life Insurance Company until December 1944, when he left Manila to join guerrillas actively in Northern Luzon. Finally arrived at Headquarters of Colonel Volckmann's guerrilla force (USAFIP-NL) and joined this organization on 28 Mar 45.

d. Affidavit Major Juan F. Nakpil dated 26 Jul 45 states it was doubtful Colonel Martelino was forced to work for the Puppet Government, since the Japanese did not force anyone to work for the Puppet Government.

e. In affidavit of Major Antonio V. Sayson, of 26 Jul 45, he stated S/I was forced to work for the Puppet Government. Later he stated that what he meant was that every physically able man should find employment.

f. Affidavit of Luis A. Fernandez dated 26 Jul 45 stating S/I engaged in guerrilla activity and was forced to work in the Puppet Government. Later advised his information based solely on inference (conversation with S/I).

g. Determination United States Army Forces, Western Pacific, APO 707 dated 16 May 1946:

Duty	1 Dec 41 - 7 Dec 41
Beleaguered	8 Dec 41 - 8 Apr 42
Prisoner of War	9 Apr 42 - 9 Apr 42
Missing in Action	10 Apr 42 - 14 Sep 42
No Casualty Status	15 Sep 42 - 27 Mar 45

COLONEL AMADO MARTELINO  
 014 881

h. On 17 Dec 46 S/I forwarded an appeal letter for reconsideration of his non casualty status to The Adjutant General while he was at Fitzsimmons General Hospital, Denver, Colorado awaiting proceedings of Army Retiring Board for officers.

i. TAG forwarded letter of S/I on 3 Feb 47 to Philippines-Ryukyus Command for recommendation.

j. Colonel Morris H. Marcus, 2nd Indorsement, Headquarters, Philippines-Ryukyus Command dated 12 Mar 47, recommended that request be not favorably acted upon since his activities during non casualty status period cannot be considered as contributing materially to the resistance movement, and deprivation he endured was shared in varying degrees by other loyal Filipinos.

k. TAG Comment #1 to Director, Per. & Adm. Div., WDGS recommended casualty status for period 15 Sep 42 to 27 Mar 45 based on cases of Colonel Pastor Martelino (USAF, WESPAC determination NIGS 1 Oct 42 - 22 Dec 42 and WD redetermination 30 Jan 46 that S/I in casualty status for full period of time) and Colonel Rafael L. Garcia (Secretary of War's Personnel Board favorable consideration on 26 Mar 47 of his appeal).

l. Memorandum from Director of Pers. & Adm. dated 12 Apr 47 to Secretary of War's Personnel Board concurring in recommendation of TAG to over-rule decisions of AFWESPAC and Philippines-Ryukyus Command.

m. Redetermination of Secretary of War's Personnel Board 17 Apr 47 that S/I in casualty status 15 Sep 42 to 27 Mar 45.

n. Redetermination Philippines-Ryukyus Command, APO 707 dated 12 Aug 47 (in compliance with 2 m above):

Duty	1 Dec 41 - 7 Dec 41	/
Beleaguered	8 Dec 41 - 8 Apr 42	/
Prisoner of War	9 Apr 42 - 9 Apr 42	/
Missing in Action	10 Apr 42 - 27 Mar 45	/

o. 1st Indorsement, General Moore, commanding Philippines-Ryukyus Command, dated 31 May 47 appealing action taken by Secretary of War's Personnel Board on 17 Apr 47 and recommending action of Secretary of War's Personnel Board be reconsidered.

p. Secretary of War's Personnel Board on 23 Jul 47 adhered to its former action of 17 Apr 47 based on subject's early separation from puppet agency, and that subject suffered more than normal deprivation; also stated that basic policy of CG, FEC and CG, AFWESPAC not circumvented by this action.



COLONEL AMADO MARTELLINO  
OL4 881

q. Subject relieved from active duty 31 May 47 as a colonel at Fitzsimmons General Hospital, Denver, Colorado. Reason: Retired, par. 23, SO 63, WD, dated 31 Mar 47.

3. Discussion: Original determination of USAF, WESPAC 16 May 46 held S/I was NIGS from 15 Sep 42 to 27 Mar 45. S/I appealed his non casualty status and Secretary of War's Personnel Board held on 17 Apr 47 that subject was in a casualty status from 15 Sep 42 to 27 Mar 45. Philippines-Ryukyus Command had previously recommended that appeal be not favorably considered, but TAG and Director of Pers. & Adm. had recommended over-ruling decision of AFWESPAC and Philippines-Ryukyus Command. Commanding General of PG on 31 May 47 appealed decision made by Secretary of War's Personnel Board and recommended action be taken to reconsider. Secretary of War's Personnel Board on 23 Jul 47 adhered to action previously taken, based on early separation from puppet agency, and that he suffered more than normal deprivation. This Board also remarked that the basic policy of Commanding General, Philippines-Ryukyus Command, as implemented by policy of Commanding General, AFWESPAC, was not circumvented by the action taken by them.

In view of the policy regarding no casualty status outlined in WD Plan (7 Nov 44) and Staff Memo #14 (27 Dec 45), the reason for such a statement is not clear. When S/I separated from Puppet Government agency 1 Jan 44 to work for an insurance company, he was still NIGS within the meaning of Section 2 of the Missing Persons Act, as pertains to active service. Colonel Marcus remarks in 2nd Indorsement dated 12 Mar 47, subject did not suffer any more serious deprivation than was shared by other loyal Filipinos, and that he joined a guerrilla organization when the right time came (28 Mar 45).

General Moore states in 1st Indorsement, 5 Jan 47 to TAG that the action taken by the Secretary of War's Personnel Board will result in the United States Government's paying arrears in pay to this officer for a period when he was in the employ of the Japanese Puppet Philippine Government and receiving a salary from that government. General Moore further states subject was not forced to accept a position with the Puppet Government, since a review of hundreds of similar cases fails to reveal that the Japanese seldom, if ever, carried out any real or implied threat of this nature and adds as proof that they allowed him to quit on 31 Dec 43 on the excuse of illness, even though he took employment immediately afterward as a life insurance and real estate agent.

While subject evidently helped guerrilla units and individuals, there is no record which would indicate that he actively joined a guerrilla force or actively participated in the anti-Japanese movement, until 28 Mar 45 when he joined Colonel Volckmann's guerrillas. There is no evidence of serious deprivation or material restraint during the period 15 Sep 42 to 27 Mar 45.

COLONEL AMADO MARTELLINO  
014 881

DECLASSIFIED  
Authority AND 883078

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as originally held in determination of 16 May 46:

Duty	1 Dec 41 - 7 Dec 41
Beleaguered	8 Dec 41 - 8 Apr 42
Prisoner of War	9 Apr 42 - 9 Apr 42
Missing in Action	10 Apr 42 - 14 Sep 42
No Casualty Status	<u>15 Sep 42 - 27 Mar 43</u>

COLONEL RAFAEL L. GARCIA, O4 477

1. Problem: Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Subject individual was a cadet at the United States Military Academy from 1912 to 1916. Appointed second lieutenant, Infantry on 13 June 1916.

b. At the outbreak of war, subject was detailed as District Commander, 4th Military District (Philippine Army) under General Valdes, from 16 Feb 42 to 30 May 42, Base Quartermaster C.O., Passi, Iloilo under General Christie.

c. Affidavit of S/I dated 18 May 45 states that when the Japanese invaded Panay he was on a tour of inspection of warehouses, so that he did not surrender with Panay Division on 30 May 42, but he went to Luzon. Surrendered to Japanese in Manila on 15 Sep 42. Organized guerrilla units in Manila, Marinduque and Tayabas. Clerk at Malacanan 16 Sep to 30 Oct 42; Chief, Price Control Division, Bureau of Commerce and Industries 1 Nov 42 to 30 Sep 43; Assistant Food Administrator, Office Food Administration 1 Oct 43 to 31 Aug 44. Organized guerrillas in Marinduque (Marinduque Patriots' Army) 1 Sep 44 to 8 Oct 44. Reported to American task force which landed in Marinduque 3 Jan 45 (4 Jan 45 to 15 May 45).

d. Loyalty Status, letter Commanding General, United States Army Forces, Western Pacific 13 May 46 to S/I stating subject remained loyal to the United States throughout period from time of surrender to the Japanese (about 16 Sep 42) to the time he returned to military control with the American forces in Marinduque about 3 Jan 45.

e. Determination of CG, USAF, WESPAC, APO 707 of 16 May 46: Grade and status of S/I from 30 Nov 41 (date of last payment in full) to 18 May 45 (date of return to military control):

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Lieutenant Colonel	1 Dec 41	31 Dec 44
Colonel	1 Jan 45	17 May 45

COLONEL RAFAEL L. GARCIA  
O4 477

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	6 May 42
Missing in Action	7 May 42	14 Sep 42
Prisoner of War	15 Sep 42	15 Sep 42
NICS: Employed by Japanese Puppet Government	16 Sep 42	31 Aug 44
NICS: Sec. IV, par. 1g, WD Plan	1 Sep 44	17 May 45

f. Appeal letter of S/I, 21 Jun 46, addressed to CG, AFWESPAC requesting redetermination of status for period 1 Dec 41 to 17 May 45 based on underground resistance and conditions of parole.

g. Letter CG, USAFWESPAC, 24 Jul 46 advising S/I his appeal for redetermination of his casualty status not favorably considered.

h. Appeal letter of S/I, 24 Sep 46, addressed to TAG thru channels requesting casualty status for three periods: (1) 16 Sep 42 to 31 Aug 44 (employed by Japanese puppet agency); (2) 1 Sep 42 to 2 Jan 45 (date left employment to date liberated) and (3) 3 Jan 45 to 17 May 45 (date of liberation to date returned to military control). He claims POW status for the entire period above. He alleges material restraint because of parole conditions, and that he was ordered to work for the Puppet Government. He states that his family suffered serious deprivation (sold his house for P150,000.00 and borrowed P6,000.00) and that he engaged in continuous underground activities. 23 inclosures added to subject's basic communication:

6 affidants state they were with S/I when they escaped from Panay 30 May 42 rather than surrender.

4 affidants give information re alleged guerrilla activity while in Manila.

7 affidants speak of guerrilla activity in Oct 44 in Marinduque, that request was made for arms but that they were never received.

3rd Indorsement of CG, USAF, WESPAC 14 Dec 46 to TAG advising that none of the affidavits contain material evidence to support his claim that he was POW for entire period of the occupation. Neither do they indicate he was actively engaged in guerrilla activities. There is nothing to indicate that his employment with the Japanese Puppet Government was other than voluntary. War Department Plan for Casualty Administration Upon Reoccupation of the Philippines (Sec. IV, par. 1g) and Staff Memo #14 quoted as basis for NCS period. USAF, WESPAC attached 21 inclosures bringing out the following data:

COLONEL RAFAEL L. GARCIA  
O4 477

DECLASSIFIED  
Authority AND 883078

Counter Intelligence Corps Investigation of S/I 15 Sep 45 as a Puppet Government official suspected of having voluntarily given aid, comfort and sustenance to the enemy in violation of allegiance due the Governments of the United States and Commonwealth of the Philippines.

On 15 Sep 42 S/I went to see Vargas, then head of the Exec. Commission (an old friend of Garcia's), asking for advice about registering with the Japanese authorities. Vargas made arrangements (CIC Inves. 8 Feb 45).

Manila Tribune of 11 Mar 43 shows S/I, Colonels Poblete, Mara, Alba and Alejandro Garcia under caption "Ex-USAFFE Officers Collaborate."

Statement of Philippine Exec. Commission 11 Mar 43 to all leaders, asking them to surrender and they "will be immediately given your freedom." "The former members of the USAFFE who are now with us are Colonel Rafael Garcia of Magpog", etc. "These officers are purposely here to help you in any way they can. In that manner you may be able also to enjoy the same liberty and freedom that they are now enjoying." "Let us not forget that we are all brothers and that we are all Filipinos and that we are all interested in the complete pacification of our country."

C/N to Legal Section from Investigation Section, AFWESPAC, 25 Jan 46, stating that S/I sold his house at 2885 Taft Avenue to Mrs. Valmocena for 150,000 pesos on 1 Oct 43.

CIC Memo 8 Feb 45 that S/I received a salary of ₱210.00 a month while with the Bureau of Commerce and Industry.

C/N from Investigation Section to Legal Section, AFWESPAC, 27 Dec 45 discloses that subject received 2,168.32 pesos on 19 Oct 42 in a check from the Philippine Refining Company (signed by H. Miyajima, Mitsui Bussan Kaisha, Lt.). Colonel Peralta (PA), Lieutenant Colonel William F. Gemperle (AUS) and Major S. T. Untulon (PA) state to the best of their knowledge S/I was furnished a considerable amount of money on orders of General Christie for use on Panay Island which has not been accounted for.

Colonel Peralta's wire to General MacArthur, 16 Jan 45, requesting S/I be investigated.

Manila Tribune of 11 Oct 42: "The list of soldiers given full amnesty follows:

Colonels

1. Garcia, Rafael L. ✓
2. Martelino, Pastor ✓
3. Moran, Juan ✓

Lieutenant Colonels

4. Martelino, Amado ✓

Affidavit of Eugenio Labaguis, of Magpag, Marinduque, states in latter part of 1943/S/I gave a message in Magpag schoolhouse stating that he had surrendered to the Japanese and he requested the guerrillas also surrender in order that Marinduque would be restored to peace and order.

Affidavit of Anacleto M. Lauresta of Magpag, 5 Feb 45, to the same effect.

Affidavit of Manano M. Layco and Antonio Villasta of Magpag, 14 Jan 45, stating that in early part of 1943 Japanese propaganda corps of about ten men came to their city, one of whom was Colonel Rafael Garcia. These all gave speeches advising all the guerrillas to surrender immediately to the Japanese in order to maintain peace and order.

CIC statement of 12 Apr 45, file 479-135, from Colonel Garcia regarding this speech that in substance he said those living in hills should return to their homes and cultivate their fields, and that he was referring to civilians; however, statement may have been misconstrued by some that he was referring to guerrillas.

CIC statement of Mr. Nipomaceno 8 Feb 45, file 479-135, in private conversation with S/I, Colonel Garcia said that since he, a colonel of the Philippine Army, had seen fit to surrender to the Japanese, there was no reason why the guerrillas should not do likewise.

CIC statement of 8 Feb 45, file 479-135, interview with Colonel Garcia. Apparent to S/I he was not accomplishing anything for Filipinos as early as June 1944, and that what he was doing was almost wholly for benefit of Japanese. He said in June 1944 the Japanese were encouraging civilians to leave Manila. He was asked why he did not leave his job. He stated that he had to continue because of his family. He finally went to Magpag, Marinduque on 6 Oct 44.

CIC statement 8 Feb 45, file 479-135, Captain Tecson of a guerrilla unit approached Colonel Garcia in October 1944 for help

COLONEL RAFAEL L. GARCIA  
04 477

and S/I was very cold toward him, stating that if Captain Teeson would form a division, then he would consider accepting command of it. He said he did not want his name identified with the guerrillas on Marinduque at that time. Mr. Nipocenceno said that in his opinion Colonel Garcia had been a willing collaborator with the Japanese, and that his attitude toward the return of the U. S. changed in direct proportion to the actual military situation. He stated that the foregoing is a good example of the opportunistic game subject played throughout the war.

Statement of Colonel Macario Peralta, Jr., undated, that the guerrilla organization on Marinduque was under the command of Major Sofronio Untulon (Inf), Philippine Army, since 1942 until Colonel Garcia made pretenses of taking over command of a non-existent regiment in January 1945. Major Untulon wired Colonel Peralta for permission to arrest and tie up Colonel Garcia, but was told to let him alone. Colonel Peralta states that as District Commander of the 6th Military District since its start, he should know if a regiment existed in Marinduque under the command of Colonel Rafael Garcia.

S/I was restricted to the province of Marinduque by the 479th CIC Det., Hq., USAFFE from 4 Jan 45 to 8 May 45 for investigation of alleged Japanese employment. During the period 9 May 45 to 17 May 45 subject was paroled by above CIC Det. and directed to remain at the 5th Replacement Depot, APO 711.

i. On 31 Dec 46, S/I, now in Washington, D. C., sent letter to Chief, Casualty Branch, TAGO, reiterating information previously furnished in letter of 24 Sep 46, but stating that he should have casualty status for the entire period since the circumstances of his case are exactly the same as those of Colonels Pastor Martelino and J. S. Moran, who received status for the entire period of the Japanese occupation.

j. C #1, TAG, undated to Dir. Pers. & Adm. Div., WDGS attaching S/I's appeal letter of 24 Sep 46, and 3rd Indorsement, CG, USAF, WESPAC holding to prior determination of 16 May 46 that S/I was NICS 16 Sep 42 to 17 May 45. TAG states Colonel Garcia bases claim on assertion he was under constant surveillance by the Japanese and at no time had complete liberty, and the further fact that he rendered assistance to the guerrilla movement during this time. Recommendation made that action taken by USAF, WESPAC be reviewed and their determination affirmed or disapproved.

k. Above C #1 evidently not forwarded, for another C #1 dated 21 Feb 47 sent to Dir. Pers. & Adm. Div., WDGS with same data, but recommending that it be redetermined S/I in a casualty status

COLONEL RAFAEL L. GARCIA  
 O4 477

16 Sep 42 to 17 May 45, in view of similarity of this case with cases of Colonel Pastor Martelino and Colonel Juan S. Moran (both executed by the Japanese).

1. C #2 to Chairman of Secretary of War's Personnel Board from D/PA 6 Mar 47 stating that in the case of Colonel Pastor Martelino TAG over-ruled the decision of AFWESPAC and determined Colonel Martelino was in a casualty status. Although the cases of Garcia and Martelino are very similar, it is believed decision to over-rule a finding by AFWESPAC should come from the appointing authority for determining casualty status, i.e., the Secretary of War.

2. C #1 to TAG from D/P&A, WDGS, 27 Mar 47 inviting attention to Memorandum to the Director of Personnel and Administration dated 10 Mar 47, wherein determination was made by the Secretary of War's Personnel Board that S/I was not in casualty status during the period 16 Sep 42 to 17 May 45 and Memorandum to Dir. of Pers. & Adm. from the Secretary of War's Personnel Board dated 26 Mar 47, wherein determination was made that S/I was in a casualty status during period 16 Sep 42 to 17 May 45 based on additional evidence presented by Colonel Garcia and verbal advice from JAGO. TAG to notify Colonel Garcia and notify CG, Philippines-Ryukyu Command of determination of Secretary of War's Personnel Board.

3. Discussion: USAF, WESPAC letter of 18 May 46 advised S/I he was considered continuously loyal throughout Japanese occupation. Original affidavit of 13 May 45 makes no mention of serious deprivation or material restraint. S/I makes mention of organizing guerrilla units in Manila, Marinduque and Tayabas. Original determination, USAF, WESPAC 16 May 46 held S/I not in casualty status 16 Sep 42 to 17 May 45. Appeal of S/I addressed to CG, AFWESPAC requesting redetermination of casualty status for period 1 Dec 41 to 17 May 45. Letter, USAF, WESPAC 24 Jul 46 to S/I advising his appeal for redetermination not favorably considered. Appeal letter of S/I of 24 Sep 46 addressed to TAG thru channels again requesting reconsideration of his casualty status, stating he was POW for period 16 Sep 42 to 17 May 45 and alleging serious deprivation and material restraint. 3rd Indorsement, CG, USAF, WESPAC 14 Dec 46 to TAG forwarding S/I's basic communication of 24 Sep 46, advising that none of the affidavits inclosed with S/I's letter contain material evidence to support his claim. The CG, USAF, WESPAC inclosed Counter Intelligence Corps statements indicating collaboration with the Japanese. C #1, TAG undated, 1946, to Dir. Personnel & Administration Div., WDGS forwarding basic communication and indorsement with inclosures requesting action taken by AFWESPAC be affirmed or disapproved. Previous C #1 evidently not forwarded as intended for C #1 of 21 Feb 47 sent to same office now recommending redetermination for casualty status 16 Sep 42 to 17 May 45 in view of similarity of this case and that of Colonel Pastor Martelino and Colonel Juan S. Moran (both executed by the Japanese). C #1 from D/P&A, WDGS to TAG, 27 Mar 47, inviting attention to Memorandum to Dir. of Pers. & Adm. Div. from



COLONEL RAFAEL L. GARCIA  
04 477

Secretary of War's Personnel Board dated 26 Mar 47, wherein determination was made that S/I was in a casualty status during period 16 Sep 42 to 17 May 45, based on additional evidence presented by Colonel Garcia and verbal advice of JAGC. TAG to notify Colonel Garcia and CG, Philippines-Ryukyus Command.

Greater credence is given to information given in original affidavit of 18 May 45, which makes no mention of serious deprivation or material restraint. Letter TAG, 29 Mar 47 to Commanding General, Philippines-Ryukyus Command in case of S/I states each case is considered by the War Department on its individual merits, and this is not to be construed as amending established policies. It appears from the foregoing that Staff Memo #14 (27 Dec 45) and paragraph 1g, Section IV, War Department Plan for Casualty Administration Upon Reoccupation of the Philippines (7 Nov 44) still pertain, but an exception is deemed warranted by the War Department in this instance. TAG claims this case is similar to that of Colonel Pastor Martelino and Colonel Juan S. Moran, both of whom were executed by the Japanese on 6 Jan 45 and 7 Jan 45, respectively. It is true that there is a similarity in that all three worked for the Puppet Government in Manila, and as a consequence should have been considered NICS for this period of time, irrespective of later status of POW which was applicable for Colonels Pastor Martelino and Moran, but not for Garcia. It is not clear why status was given to S/I for the entire period of the Japanese occupation. The question could be asked why he left Panay Island with a group of officers after the surrender of the troops there on or about 30 May 42, and whether there should not have been an obligation on his part to organize or contact resistance forces on Panay Island. He does not state that he was in hiding when he arrived in Manila, so NCS would normally have started subsequent to his arrival home about the middle of June 1942. About 15 Sep 42 he surrendered to the Japanese and subsequently worked for the Japanese Puppet Government. CIC Investigation brings out the fact that he could have left Manila at a considerably earlier period, and that he was considered by some a willing collaborator with the Japanese in connection with his employment in Manila and speeches in Marinduque regarding his surrender to the Japanese, and that he saw no reason why the guerrillas should not do likewise. Colonel Peralta states that Marinduque was under his command (6th Military District) and that he had a Major Sofronio Untalon (Inf) PA, in charge of guerrilla activities in the Island. It would appear that not all records are present, since loyalty report is not in records received from Washington. It may be that this report, because of CIC Investigation, was classified.

There is no evidence he actively joined a guerrilla force or that he actively participated in the anti-Japanese movement during the occupation. There is no evidence of serious deprivation or material restraint during the period 16 Sep 42 to 17 May 45 that was greater than that generally suffered by other residents of the Philippines.

COLONEL RAFAEL L. GARCIA

O4 477

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as follows:

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	5 May 42
Missing in Action	6 May 42	5 Jun 42
No Casualty Status	6 Jun 42	17 May 45

(Returned to military control 18 May 45).

LIEUTENANT COLONEL VICTOR Z. GOMEZ, OIA 876

1. Problem: Whether subject was entitled to status under the provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Appointed second lieutenant, Regular Army (Philippine Scouts) to rank from 1 Nov 21, letter TAG, WD, 18 Nov 21; accepted 21 Nov 21, for duty with the Philippine Department, Manila, Philippines.

b. At the outbreak of war, subject individual was Commanding Officer of the 91st Field Artillery, 91st Division (Philippine Army) stationed at Bongabong, Cabanatuan, Luzon, Philippines.

c. Promoted to lieutenant colonel (Temp. AUS) par. 2, SO #10, Headquarters, USFIP, 1 Apr 42.

d. Affidavit of S/I dated 20 Jan 45 states he surrendered to the Japanese on Bataan 11 Apr 42 and was released from Camp Dau on 1 Oct 42 to return to his home in Manila. In Manila he joined staff of General Francisco in Government Employees' Training Institute on 7 Oct 42 and was with this organization until 10 Aug 43, when he was transferred to Bureau of Public Welfare. Resigned from this 30 Sep 43. Then returned to civilian life in Manila and Baguio. Reported for duty at Advance Detachment, USAFFE, APO 501 on 20 Jan 45. No illnesses mentioned.

e. Determination of Commanding General, United States Army Forces, Western Pacific, APO 707, 23 Apr 46 (grades and status from 30 Nov 41 (date of last payment in full) to 20 Jan 45 (date of return to military control) ):

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Dec 41	31 Oct 44
Lieutenant Colonel	1 Nov 44	19 Jan 45

  

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	10 Apr 42
Prisoner of War	11 Apr 42	30 Sep 42
NICS (Sec. IV, par. 1g, WD Plan)	1 Oct 42	6 Oct 42
NICS (employed by Puppet Gov't.)	7 Oct 42	30 Sep 43
NICS (Sec. IV, par. 1g, WD Plan)	1 Oct 43	19 Jan 45

LIEUTENANT COLONEL VICTOR Z. COMEZ  
014 876

f. Loyalty status, letter CG, USAF, WESPAC 13 May 46 stating S/I continuously loyal to the United States throughout period 11 Apr 42 to 20 Jan 45.

g. Appeal letter of S/I addressed to TAG thru PHILRYCOM, 19 Aug 47 requesting reconsideration of casualty status for period 1 Oct 42 to 19 Jan 45, based on the following: (1) He was compelled to serve in the Puppet Government; (2) He was deprived of reasonable freedom of action (necessity of reporting periodically his whereabouts); (3) He was unable to find means of livelihood compatible with his status (continuous treatment for deafness to latter part of 1945); (4) His family suffered serious deprivation (necessity of selling personal belongings, household goods, and obtaining loans) and (5) He actively participated in the anti-Japanese movement (listening to underground broadcasts, extending material aid and advice).

Twenty-six (26) inclosures attached to appeal letter, twenty-two (22) of which are affidavits:

- 2 affiants refer to his undoubted loyalty.
- 5 affiants refer to his borrowing of funds and sale of household and personal goods.
- 3 affiants speak of his prisoner of war status.
- 1 affiant (doctor) tells of his treatment for 6 months for ear trouble in 1943.
- 7 affiants relate details regarding his employment with Government Employees' Training Institute and Bureau of Public Welfare.
- 2 affiants refer to his listening to short wave broadcasts and talks with Colonel Moran (his brother-in-law) about guerrilla activities.

h. 1st Indorsement, CG, PC to TAG 23 Aug 47 forwarding basic communication of 19 Aug 47 to TAG for appropriate action. In view of action taken by Secretary of War's Army Personnel Board in cases of Colonel Rafael L. Garcia, Colonel Amado Martelino, recommended this case be referred to Board for consideration.

i. 2nd Indorsement, TAG to CG, PC, 5 Dec 47 inviting attention to attached finding of Army Personnel Board, 2 Dec 47, that S/I was in a casualty status during the period 1 Oct 42 to 20 Jan 45 and entitled to benefits under Section 2 of the Missing Persons Act. Reference also made to JAG opinion JACA 1947/8785 made in this case:

"This office, while recognizing that a soldier who returns to his home, resumes his normal mode of life as a civilian, and does not participate in resistance to the enemy, can in no way be said to be 'missing, missing in action, interned in a neutral country,

LIEUTENANT COLONEL VICTOR Z. GOMEZ  
014 876

f. Loyalty status, letter CG, USAF, WESPAC 13 May 46 stating S/I continuously loyal to the United States throughout period 11 Apr 42 to 20 Jan 45.

g. Appeal letter of S/I addressed to TAG thru PHILRYCOM, 19 Aug 47 requesting reconsideration of casualty status for period 1 Oct 42 to 19 Jan 45, based on the following: (1) He was compelled to serve in the Puppet Government; (2) He was deprived of reasonable freedom of action (necessity of reporting periodically his whereabouts); (3) He was unable to find means of livelihood compatible with his status (continuous treatment for deafness to latter part of 1945); (4) His family suffered serious deprivation (necessity of selling personal belongings, household goods, and obtaining loans) and (5) He actively participated in the anti-Japanese movement (listening to underground broadcasts, extending material aid and advice).

Twenty-six (26) inclosures attached to appeal letter, twenty-two (22) of which are affidavits:

- 2 affiants refer to his undoubted loyalty.
- 5 affiants refer to his borrowing of funds and sale of household and personal goods.
- 3 affiants speak of his prisoner of war status.
- 1 affiant (doctor) tells of his treatment for 6 months for ear trouble in 1943.
- 7 affiants relate details regarding his employment with Government Employees' Training Institute and Bureau of Public Welfare.
- 2 affiants refer to his listening to short wave broadcasts and talks with Colonel Moran (his brother-in-law) about guerrilla activities.

h. 1st Indorsement, CG, PC to TAG 23 Aug 47 forwarding basic communication of 19 Aug 47 to TAG for appropriate action. In view of action taken by Secretary of War's Army Personnel Board in cases of Colonel Rafael L. Garcia, Colonel Amado Martelino, recommended this case be referred to Board for consideration.

i. 2nd Indorsement, TAG to CG, PC, 5 Dec 47 inviting attention to attached finding of Army Personnel Board, 2 Dec 47, that S/I was in a casualty status during the period 1 Oct 42 to 20 Jan 45 and entitled to benefits under Section 2 of the Missing Persons Act. Reference also made to JAG opinion JACA 1947/8785 made in this case:

"This office, while recognizing that a soldier who returns to his home, resumes his normal mode of life as a civilian, and does not participate in resistance to the enemy, can in no way be said to be 'missing, missing in action, interned in a neutral country,

LIEUTENANT COLONEL VICTOR Z. GOMEZ  
 OLA 876

captured by an enemy, beleaguered or besieged', has expressed the opinion that in the event such individual should be able to show that in his civilian life he still 'suffers the hazards of war over that of his neighbor, and that this is a direct result of his former official status,' he still may be declared in a casualty status and thus entitled to the pay and allowances prescribed under the Missing Persons Act (act 7 Mar 1942, 56 Stat. 143), as amended (act 1 Jul 1944, 58 Stat. 679; 50 U.S.C. App., Sup. V, 1001, et seq). Consequently, it is considered that the evidence contained in the present file would substantiate an administrative determination that Lieutenant Colonel Gomez was in a casualty status, as provided in section 2 of the mentioned act, during the periods here in question."

j. Redetermination of CG, Philippines-Ryukyus Command, 13 Feb 48:

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Dec 41	31 Mar 42 ✓
Lieutenant Colonel	1 Apr 42	19 Jan 45 ✓

  

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	10 Apr 42 ✓
Prisoner of War	11 Apr 42	30 Sep 42 ✓
Missing in Action	1 Oct 42	19 Jan 45 ✓

k. Subject died 5 Apr 55 of carcinoma nasopharynx in the Philippines while in a retired status (Colonel, USA Retired (Arty.))

1. Letter, TAG, 29 May 47 to Commanding General, Philippines-Ryukyus Command in connection with somewhat similar case of Garcia, Rafael L. (Colonel) states that the Garcia case, as well as other cases considered by the War Department, are decided on their individual merits and are not to be construed as amending established policies.

3. Discussion: Original determination, USAF, WESPAC, 23 Apr 46, held S/I not in casualty status for the period 1 Oct 42 to 19 Jan 45. Original affidavit dated 20 Jan 45 of S/I makes no mention of duress, sickness, serious deprivation, material restraint, or that which could be considered active anti-Japanese activity until 20 Jan 45. On 19 Aug 47 S/I appealed his casualty status during the period 1 Oct 42 to 19 Jan 45 in letter addressed to TAG thru PHILRYCOM, based on serious deprivation,

LIEUTENANT COLONEL VICTOR Z. GOMEZ  
014 876

captured by an enemy, beleaguered or besieged', has expressed the opinion that in the event such individual should be able to show that in his civilian life he still 'suffers the hazards of war over that of his neighbor, and that this is a direct result of his former official status,' he still may be declared in a casualty status and thus entitled to the pay and allowances prescribed under the Missing Persons Act (act 7 Mar 1942, 56 Stat. 143), as amended (act 1 Jul 1944, 58 Stat. 679; 50 U.S.C. App., Sup. V, 1001, et seq). Consequently, it is considered that the evidence contained in the present file would substantiate an administrative determination that Lieutenant Colonel Gomez was in a casualty status, as provided in section 2 of the mentioned act, during the periods here in question."

j. Redetermination of CG, Philippines-Ryukyus Command, 13 Feb 48: ✓

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Dec 41	31 Mar 42 ✓
Lieutenant Colonel	1 Apr 42	19 Jan 45 ✓

  

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	10 Apr 42 ✓
Prisoner of War	11 Apr 42	30 Sep 42 ✓
Missing in Action	1 Oct 42	19 Jan 45 ✓

k. Subject died 5 Apr 55 of carcinoma nasopharynx in the Philippines while in a retired status (Colonel, USA Retired (Arty.)) ✓

1. Letter, TAG, 29 May 47 to Commanding General, Philippines-Ryukyus Command in connection with somewhat similar case of Garcia, Rafael L. (Colonel) states that the Garcia case, as well as other cases considered by the War Department, are decided on their individual merits and are not to be construed as amending established policies. ✓

3. Discussion: Original determination, USAF, WESPAC, 23 Apr 46, held S/I not in casualty status for the period 1 Oct 42 to 19 Jan 45. Original affidavit dated 20 Jan 45 of S/I makes no mention of duress, sickness, serious deprivation, material restraint, or that which could be considered active anti-Japanese activity until 20 Jan 45. On 19 Aug 47 S/I appealed his casualty status during the period 1 Oct 42 to 19 Jan 45 in letter addressed to TAG thru PHILRYCOM, based on serious deprivation, ✓

LIEUTENANT COLONEL VICTOR Z. GOMEZ  
014 876

material restraint, sickness and active participation in anti-Japanese activity. Twenty-two (22) affiants make similar statements in inclosures to appeal letter. 1st Indorsement, PC to TAG, 23 Aug 47, forwards case for appropriate action in view of Army Personnel Board action in the case of Colonel Rafael L. Garcia and Colonel Amado Martelino. 2nd Indorsement, TAG to PC, 5 Dec 47, re: finding of Army Personnel Board 2 Dec 47 that S/I was in a casualty status during the period 1 Oct 42 to 20 Jan 45. Reference also made to JAG opinion JAGA 1947/8785 in this case. Redetermination of CG, FRC, 13 Feb 48 that S/I was in a casualty status 1 Dec 41 to 19 Jan 45.

Greater credence is given to information given in original affidavit of 10 Jan 45, which makes no mention of serious deprivation, material restraint or sickness as alleged in appeal letter of 19 Aug 47. In Loyalty Board report of 17 Feb 46, S/I states: "We evacuated to Baguio in August 1944 through the insistence of my wife and sister-in-laws." Since it was possible to evacuate Manila in August 1944, there appears to be no reason why this could not have been done at a much earlier date. Letter, TAG, 29 Mar 47 to Commanding General, Philippines-Ryukyus Command in case of Colonel Garcia (par. 2 1) states each case considered by War Department on its individual merits and this is not to be construed as amending established policies. It appears from the foregoing that Staff Memo #14 (27 Dec 45) and paragraph 1g, Section IV, War Department Plan for Casualty Administration Upon Reoccupation of the Philippines (7 Nov 44) still pertain, but an exception is deemed warranted by the War Department in this particular case. It is not clear how Colonel Gomez could have been engaged in active anti-Japanese activity while in Manila, and under the surveillance of the Japanese.

There is no evidence he actively joined a guerrilla force or that he actively participated in the anti-Japanese movement before 20 Jan 45. There is no evidence of serious deprivation or material restraint during the period 1 Oct 42 to 19 Jan 45 that was greater than that generally suffered by other residents of the Philippines.

It is noted that JAG opinion JAGA 1947/8785 of 17 Nov 47 states, "evidence contained in present file would substantiate an administrative determination that Lieutenant Colonel Gomez was in a casualty status, as provided in Section 2 of the mentioned act, during the periods in question." It is believed that the foregoing opinion was based on affiants' statements to the effect that S/I "suffered the hazards of war over that of his neighbor." No mention or provision is made for NCS status for partial periods that were less hazardous. If such a ~~substantiated~~ determination is warranted in this case, then there is also a multitude of others equally deserving.



LIEUTENANT COLONEL VICTOR Z. GOMEZ  
 OLA 876

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as held in original determination of 23 Apr 46, except that S/I would be promoted to lieutenant colonel 1 Apr 42 instead of 1 Nov 44:

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Dec 41	31 Mar 42 ✓
Lieutenant Colonel	1 Apr 42	19 Jan 45 ✓
<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	10 Apr 42 ✓
Prisoner of War	11 Apr 42	30 Sep 42 ✓
Not in Casualty Status	1 Oct 42	19 Jan 45 ✓

(Returned to military control 20 Jan 45.)

**LIEUTENANT COLONEL SALVADOR REYES, OS 614**

1. Problem: Whether subject was entitled to status under provisions of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Cadet in United States Military Academy from 22 Jun 14 to 29 Aug 17. Appointed second lieutenant, Regular Army (Philippine Scouts) 30 Aug 17. Accepted commission on 30 Aug 17.

b. At outbreak of war, was detailed as Chief of Staff, 71st Division (PA) at Camp O'Donnell, Capas, Tarlac, Philippines in grade of lieutenant colonel.

c. Affidavit of subject individual dated 19 Mar 45 states he surrendered to the Japanese on Bataan 9 Apr 42 and was a prisoner of war until date of release, 5 Oct 42. He went immediately to his home in Manila. In November 1942 Japanese Military Administration advised him he was to be a clerk in Luzon Military Administration in Manila. He got out of this, he states, in December 1942 by asking to go back home to Santa Maria, Ilocos Sur. He did not go to Santa Maria but stayed in Manila. About July 1943 he began working for the Philippine Cotton Growers Association at Calabang, Laguna. When his savings were gone he went to his home in Santa Maria in June 1944. There he contacted the North Luzon Guerrillas and reported in the headquarters of Colonel Volskmann in the mountains of Benquet on 20 Dec 44. Illnesses claimed at this time: none.

d. Certificate of General Manuel Roxas, 21 Oct 45, advising S/I to take position with Philippine Cotton Growers Association if it was absolutely necessary to do so in order to save himself and family from persecution until he could go to hills and join guerrillas.

e. Determination of Commanding General, USAF, WESPAC, APO 707, 16 May 46 (from 30 Nov 41, date last payment in full, to 20 Dec 44, date of return to military control):

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Lieutenant Colonel	1 Dec 41	19 Dec 44 ✓
<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	8 Apr 42 ✓
Prisoner of War	9 Apr 42	4 Oct 42 ✓
NICS (Sec. IV, par. 1g, WD Plan)	5 Oct 42	31 Oct 42 ✓
" (employed by Puppet Gov't.)	1 Nov 42	30 Dec 42 ✓
" (Sec. IV, par. 1g, WD Plan)	31 Dec 42	14 Jul 43 ✓
" (employed by Puppet Gov't.)	15 Jul 43	31 May 44 ✓
" (Sec. IV, par. 1g, WD Plan)	1 Jun 44	19 Dec 44 ✓

f. Letter, CG, USAF, WESPAC, APO 707, 13 May 46 to Lieutenant Colonel Reyes, Philippine Scout Recruiting Division, APO 707, advising evidence submitted in his case shows that he remained continuously loyal to the United States throughout the period from the time of surrender of Bataan to date of return to military control in December 1944.

g. S/I appealed his status on 22 Oct 47 in letter addressed to the Casualty Branch, TAGO, requesting a redetermination of status and entitlement to pay for the period 5 Oct 42 to 19 Dec 44 based on: (1) No freedom of movement; (2) Suffered service-connected illness; (3) Suffered material restraint more than that generally felt by other residents of the Philippines.

Affidavit of S/I, 23 Oct 47, with eighteen affiants' statements, bringing out details of three points enumerated above:

Affidavit of Alejo Mabang, Senator in Congress, Philippines, 3 Oct 47, that S/I suffered serious deprivation to greater extent than other residents and had no freedom of movement.

Similar statements by another Senator, business men, and friends who loaned money to S/I.

Affidavit of Dr. Leopoldo Pardo, 4 Oct 47, treated S/I for malaria 5 Oct 42 - 31 Oct 42 and 1 Jan 43 to 30 Jun 43. Took care of an appendectomy in March 1943 at San Lazaro and following tetanus infection.

Affidavit of Captain Francisco Bautista (PA), 17 Jun 47, and Ester L. Regula, 17 Jun 47, advising of subject's sale of car and household effects in order to support himself and family.

Affidavits of guerrillas advising of his help in the Santa Maria area until such time as he joined Colonel Voleckmann's Guerrillas on 20 Dec 44 (USAFIP-NL).

Affidavit of Dr. Guillermo Banez, 14 Oct 47, in connection with medical attention given subject's seven children during period June 1944 to February 1945.

h. TAG's 1st Indorsement of subject's letter of 22 Oct 47 to Commanding General, Philippines-Ryukyus Command, 7 Nov 47, for remarks and recommendation.

i. Philippines-Ryukyus Command 2nd Indorsement of 12 Jan 48 to TAG recommending previous determination of 16 May 46 be reiterated stating original affidavit of Colonel Reyes, 19 Mar 45, fails to mention any sickness, hospitalization, or undue hardship suffered by himself or family. It was also noted he was successful in

f. Letter, CG, USAF, WESPAC, APO 707, 13 May 46 to Lieutenant Colonel Reyes, Philippine Scout Recruiting Division, APO 707, advising evidence submitted in his case shows that he remained continuously loyal to the United States throughout the period from the time of surrender of Bataan to date of return to military control in December 1944.

g. S/I appealed his status on 22 Oct 47 in letter addressed to the Casualty Branch, TAGO, requesting a redetermination of status and entitlement to pay for the period 5 Oct 42 to 19 Dec 44 based on: (1) No freedom of movement; (2) Suffered service-connected illness; (3) Suffered material restraint more than that generally felt by other residents of the Philippines.

Affidavit of S/I, 23 Oct 47, with eighteen affiants' statements, bringing out details of three points enumerated above:

Affidavit of Alejo Mabang, Senator in Congress, Philippines, 3 Oct 47, that S/I suffered serious deprivation to greater extent than other residents and had no freedom of movement.

Similar statements by another Senator, business men, and friends who loaned money to S/I.

Affidavit of Dr. Leopoldo Pardo, 4 Oct 47, treated S/I for malaria 5 Oct 42 - 31 Oct 42 and 1 Jan 43 to 30 Jun 43. Took care of an appendectomy in March 1943 at San Lazaro and following tetanus infection.

Affidavit of Captain Francisco Bautista (PA), 17 Jun 47, and Ester L. Regula, 17 Jun 47, advising of subject's sale of car and household effects in order to support himself and family.

Affidavits of guerrillas advising of his help in the Santa Maria area until such time as he joined Colonel Volckmann's Guerrillas on 20 Dec 44 (USAFIP-NL).

Affidavit of Dr. Guillermo Banez, 14 Oct 47, in connection with medical attention given subject's seven children during period June 1944 to February 1945.

h. TAG's 1st Indorsement of subject's letter of 22 Oct 47 to Commanding General, Philippines-Ryukyus Command, 7 Nov 47, for remarks and recommendation.

i. Philippines-Ryukyus Command 2nd Indorsement of 12 Jan 48 to TAG recommending previous determination of 16 May 46 be reiterated stating original affidavit of Colonel Reyes, 19 Mar 45, fails to mention any sickness, hospitalization, or undue hardship suffered by himself or family. It was also noted he was successful in

terminating his position with Japanese without repercussions, which tends to weaken his statement employment was accepted under duress.

J. C #1, TAG to Secretary of the Army's Personnel Board 12 Feb 48 advising of case of Lieutenant Colonel Victor Z. Gomez, OIA 876, in which case JAGD rendered an opinion that the evidence submitted justified a redetermination of status and defined certain circumstances which should be considered in arriving at a conclusion. It was recommended that in view of JAGD opinion in case of Lieutenant Colonel Gomez and evidence submitted, that S/I be considered in a casualty status from 8 Dec 41 to 20 Dec 44.

k. Army Personnel Board found on 1 Mar 48 that Colonel Reyes was in a casualty status during period 5 Oct 42 to 19 Dec 44 and entitled to benefits of Section 2 of the Missing Persons Act.

l. TAG letter 5 Mar 48 to CG, Philippines-Ryukyus Command desiring that case be redetermined in conformance with decision of Army Personnel Board.

m. Redetermination of CG, PC, APO 707, 9 Apr 48 (in compliance with Army Personnel Board decision):

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	8 Apr 42
Prisoner of War	9 Apr 42	4 Oct 42
Missing in Action	5 Oct 42	19 Dec 44

n. JAG opinion in case of Lieutenant Colonel Victor Z. Gomez, JAGA 1947/8785, 17 Nov 47:

"This office, while recognizing that a soldier who returns to his home, resumes his normal mode of life as a civilian, and does not participate in resistance to the enemy, can in no way be said to be 'missing, missing in action, interned in a neutral country, captured by an enemy, beleaguered or besieged', has expressed the opinion that in the event such individual should be able to show that in his civilian life he still 'suffers the hazards of war over that of his neighbor, and that this is a direct result of his former official status, he still may be declared in a casualty status and thus entitled to the pay and allowances prescribed under the Missing Persons Act (act 7 Mar 1942, 56 Stat. 143), as amended (act 1 Jul 1944, 58 Stat. 679; 50 U.S.C. App., Sup. V, 1001, et seq). Consequently, it is considered that the evidence contained in the present file would substantiate an administrative determination that Lieutenant Colonel Gomez was in a casualty status, as provided in section 2 of the mentioned act, during the periods here in question."

terminating his position with Japanese without repercussions, which tends to weaken his statement employment was accepted under duress.

j. C #1, TAG to Secretary of the Army's Personnel Board 12 Feb 48 advising of case of Lieutenant Colonel Victor Z. Gomez, OIA 876, in which case JAGD rendered an opinion that the evidence submitted justified a redetermination of status and defined certain circumstances which should be considered in arriving at a conclusion. It was recommended that in view of JAGD opinion in case of Lieutenant Colonel Gomez and evidence submitted, that S/I be considered in a casualty status from 8 Dec 41 to 20 Dec 44.

k. Army Personnel Board found on 1 Mar 48 that Colonel Reyes was in a casualty status during period 5 Oct 42 to 19 Dec 44 and entitled to benefits of Section 2 of the Missing Persons Act.

l. TAG letter 5 Mar 48 to CG, Philippines-Ryukyus Command desiring that case be redetermined in conformance with decision of Army Personnel Board.

m. Redetermination of CG, PC, APO 707, 9 Apr 48 (in compliance with Army Personnel Board decision):

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	8 Apr 42
Prisoner of War	9 Apr 42	4 Oct 42
Missing in Action	5 Oct 42	19 Dec 44

n. JAG opinion in case of Lieutenant Colonel Victor Z. Gomez, JAGA 1947/8785, 17 Nov 47:

"This office, while recognizing that a soldier who returns to his home, resumes his normal mode of life as a civilian, and does not participate in resistance to the enemy, can in no way be said to be 'missing, missing in action, interned in a neutral country, captured by an enemy, beleaguered or besieged', has expressed the opinion that in the event such individual should be able to show that in his civilian life he still 'suffers the hazards of war over that of his neighbor, and that this is a direct result of his former official status, he still may be declared in a casualty status and thus entitled to the pay and allowances prescribed under the Missing Persons Act (act 7 Mar 1942, 56 Stat. 143), as amended (act 1 Jul 1944, 58 Stat. 679; 50 U.S.C. App., Sup. V, 1001, et seq). Consequently, it is considered that the evidence contained in the present file would substantiate an administrative determination that Lieutenant Colonel Gomez was in a casualty status, as provided in section 2 of the mentioned act, during the periods here in question."

LIEUTENANT COLONEL SALVADOR REYES  
08 614

c. Retired in rank of Colonel, 30 Nov 46, (par. 28 WD S.O. dated 8 Aug 46) at Washington, D. C., permanent address: 1169 Dakota, Manila, Philippines.

3. Discussion: Original determination, USAF, WESPAC, 16 May 46 held S/I not in a casualty status from 5 Oct 42 to 19 Dec 44. Original affidavit of S/I dated 19 Mar 45 makes no mention of duress or sickness. On 22 Oct 47 S/I appealed his status to TAG during period NICS, stating illness, serious deprivation and material restraint, greater than that generally suffered by other residents of the Philippines. He submitted numerous affidavits, most of which state terminology "serious deprivation," etc., without naming particular situation. Others state this involved selling of household effects and borrowing. TAG forwarded letter of S/I to Philippines-Ryukyus Command on 7 Nov 47 for recommendation. That command recommended to TAG that prior determination of 16 May 46 be reiterated, since original affidavit makes no mention of sickness, hospitalization and undue hardship. TAG C #1 to Secretary of the Army's Personnel Board, 12 Feb 48, recommended S/I be given casualty status for period 8 Dec 41 to 20 Dec 44 in view of similar case of Lieutenant Colonel Victor E. Gomez, O14 876, and JAG opinion in this case (JAG Memo 7 Nov 47 held Gomez in casualty status for a similar period (par. 2n)). Army Personnel Board found on 1 Mar 48 that subject individual was in casualty status for period 5 Oct 42 to 19 Dec 44. TAG letter of 5 Mar 48 desired Philippines Command to redetermine case in conformance with decision of Army Personnel Board. Redetermination of CG, PRG, APO 707, 9 Apr 48, that S/I was in casualty status 1 Dec 41 to 19 Dec 44.

There is no evidence to indicate that he actively joined a guerrilla force or that he actively participated in the anti-Japanese movement before 20 Dec 44. There is no evidence of serious deprivation or material restraint during the period 5 Oct 42 to 19 Dec 44 that was greater than that generally suffered by other residents of the Philippines.

Greater credence is given to information given in original affidavit of 19 Mar 45 which makes no mention of serious deprivation, material restraint, sickness or hospitalization. It is not believed that S/I is saying subsequently anything more than is actually true; however, now there is a bias for more detailed statement, in that casualty status or no casualty status is in view, based on what others have received under somewhat similar circumstances. It would appear that S/I and his large family were living prior to the war on a considerably higher level than the average Filipino family, and as a consequence, found it more difficult to adjust themselves to war-time expedencies.

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as held by USAF, WESPAC on 16 May 46, but with a period added after POW of missing in action for sickness:

Duty	1 Dec 41 - 7 Dec 41
Beleaguered	8 Dec 41 - 8 Apr 42
Prisoner of War	9 Apr 42 - 4 Oct 42
Missing in Action	5 Oct 42 - 31 Oct 42, date prior to employment by Puppet Gov't.
No casualty status	1 Nov 42 - 19 Dec 44

(Returned to military control 20 Dec 44)



LIEUTENANT COLONEL RICARDO POBLETE, 015 661

1. Problem: Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Subject individual was a cadet at the United States Military Academy. Appointed second lieutenant on 12 June 1924. Accepted commission on 18 June 1924.

b. At the outbreak of war he was on duty with the 57th Infantry Regiment as SD Chief of Staff at Santo Tomas in the grade of major under General A. M. Jones. Was detailed as Chief of Staff of 51st Division at Batangas. Proceeded to Biwan Laguna on 26 Dec 41.

c. Promoted from major to lieutenant colonel, (Temp., AUS) on 2 Apr 42, par. 3, SO #11, USFIP, Fort Mills, Philippines.

d. Manila Tribune of 11 Mar 43 shows S/I with other ex-USAFPE officers listed as collaborators.

e. Affidavit of S/I 15 May 45 states he surrendered to Japanese forces on Bataan 9 Apr 42 and was released 19 Apr 42 at Imbao, Pampanga (Prison Camp). He states he was gardening homeyards until 31 Oct 42 at Pasay Monib; Investigating Officer, Pardon & Parole Div., Department of Justice 11 Nov 42 to 31 Dec 42; Chief, Investigating Div., Department of Interior, Manila, 1 Jan 43 to 25 May 43; City Mayor, City of Cavite, 26 May 43 to 5 Feb 45.

f. Counter Intelligence Corps Report dated 27 Jun 45: Captain Modesto Dayrit, formerly a guerrilla leader, now in the Philippine Army, stated that during Poblete's administration there was not a fair distribution of food to the citizens of Cavite City. He heard several hints that Poblete was directing food into other channels for his own profit. He states S/I had frequently made speeches that since Americans would not return, there was no use continuing revolt against the Japanese. He further stated that S/I had appropriated the home of Mrs. Naty Bent, widow of an American citizen who died at Santo Tomas, who confirmed the remarks of Captain Dayrit regarding her home. She stated that even after the Americans came he waited two months more before returning her home to her. CIC agent remarks that Mrs. Bent is considered reliable, but that she disliked Poblete because of the aforementioned data, and that he paid no rent and left the house in a filthy and run-down condition. As result of interview with seven individuals who knew S/I, CIC agent remarks that subject did not collaborate with Japanese any more than was necessary by reason of his position. They believed that as an

LIEUTENANT COLONEL RICARDO POBLETE, O15 661

ex-USAFTE officer he was foolish to have taken the position of Mayor in the first place. His timid conduct before the Japanese was not believed worthy of an American officer.

g. In affidavit of 11 Sep 45, S/I states he did not join any guerrilla organization because he deemed guerrillas in Cavite lacked leadership and were law breakers. He kept in contact with Philippine Scout guerrillas in Sierra Madre Mountains. He left the office of Mayor when guerrillas occupied the City of Cavite on 7 Feb 45. He advised the 11th Airborne on 7 Feb 45 that guerrillas were law breakers in the city, and a detachment of 11th Airborne came in to take over the city government. He remained in Cavite City, not working, but helping the new government in an unofficial capacity. On 30 Mar 45 he went to his home town of Naic, Cavite where he rested until his return to military control on 15 May 45 at the 5th Replacement Depot, APO 711, Alabang.

h. Determination of Loyalty Status, letter Commanding General, United States Army Forces, Western Pacific, 13 May 46 to S/I advising that he was considered to have remained loyal to the United States throughout the period from the time of his surrender at the fall of Bataan to the time he returned to U. S. military control 15 May 45.

1. Determination of CG, USAF, WESPAC 16 May 46:

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Dec 41	1 Apr 42 ✓
Lieutenant colonel	2 Apr 42	14 May 45 ✓

  

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	8 Apr 42 ✓
Prisoner of War	9 Apr 42	18 Apr 42 ✓
NICS: Sec. IV, par. 1g, WD Plan	19 Apr 42	31 Oct 42 ✓
NICS: Employed by Puppet Gov't.	1 Nov 42	6 Feb 45 ✓
NICS: Sec. IV, par. 1g, WD Plan	7 Feb 45	14 May 45 ✓

j. On 18 Oct 47 S/I appealed the determination made in his case (par. 2 i) in letter to Commanding General, Philippines-Ryukyus Command, contending he suffered serious deprivation and material restraint.

LIEUTENANT COLONEL RICARDO POBLETE, 015 661

k. On 23 Dec 47, CG, PC advised S/I by 1st Indorsement that his request was not favorably considered as additional evidence does not prove serious deprivation. Evidence indicates S/I took position in Japanese employment through fear and not under duress, since no pressure was brought to bear to force him to take the position.

l. On 3rd Indorsement of 9 Jan 48, same correspondence, S/I appealed his case to TAG thru channels, claiming his case was the same as that of Colonel Rafael L. Garcia.

m. 5th Indorsement of unknown date, CG, PRC, forwarded case of S/I on to TAG recommending that previous determination of 16 May 46 be reiterated, that S/I was not in a casualty status for period 19 Apr 42 to 14 May 45. Attention was invited to page 2 of Loyalty Proceedings, that no pressure was exerted upon him to accept employment which was offered in November 1942. This contradicts his statement of acceptance of employment under duress. In affidavit of 11 Sep 45 no reference is made that he suffered undue hardship as alleged in present appeal.

n. TAG C #1 6 Apr 48 to Secretary of the Army Personnel Board thru Director, Pers. & Adm. Div., GSUSA, commenting on fact that S/I lived on his savings for six months after release from POW camp until he accepted employment in one of the Puppet Government departments. His pay while employed with the Department of Justice was 150 pesos per month, and 200 pesos per month while employed with the Department of Interior. His pay as Mayor of Cavite was 220 pesos per month, and he also received 10 pesos per day as a National Assemblyman. Investigation by 490th CIC disclosed the Japanese provided a house for his use and that it was not returned to the owner until two months after the Americans arrived. Since date of original determination in this case, the policies have been modified by action taken on several appeals by the Army Personnel Board and by the opinion rendered in the Gomez case by JAGD. It appears in view of the above that S/I was in a casualty status from date of release from POW camp and during the period of employment in government agencies; however, there is nothing to show that he or his family suffered any undue hardships during the time he was Mayor of Cavite. On the basis of the above, it was recommended that S/I be considered in a casualty status from 19 Apr 42 to 24 May 43 and not in a casualty status from 25 May 43 to 14 May 45.

o. C #3 from Secretary of the Army's Personnel Board 20 May 48 made a finding that S/I was in a casualty status 19 Apr 42 to 24 May 43 and not in a casualty status 25 May 43 to 14 May 45.

LIEUTENANT COLONEL RICARDO POBLETE, O15 661

p. TAG letter 27 May 48 to CG, PRC advising of Army Personnel Board's decision and desiring that PRC make a redetermination in conformance with this decision and so advise subject individual.

q. Redetermination of CG, PC, APO 707, 5 Oct 48:

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	8 Apr 42 ✓
Prisoner of War	9 Apr 42	18 Apr 42 ✓
Missing in Action	19 Apr 42	24 May 43 ✓
No Casualty Status	25 May 43	14 May 45 ✓

S/I was notified of the foregoing. ✓

r. S/I was relieved from active duty 30 Jun 49, retired because of disability, DA SO dated 29 Jun 49.

s. Died of coronary thrombosis 19 Aug 54 in Pasay City, Philippines (USA Retired (Inf) Lt Col).

3. Discussion: Loyalty status is not involved. Original determination USAF, WESPAC 16 May 46 held S/I not in casualty status 19 Apr 42 to 14 May 45. Original affidavit of 15 May 49 makes no mention of serious deprivation or material restraint. Released from POW camp 19 Apr 42, home until 31 Oct 42, with Department of Justice 11 Nov 42 to 31 Dec 42, with Department of Interior 1 Jan 43 to 25 May 43, Mayor of Cavite City 26 May 43 to 5 Feb 45. Affidavit of 11 Sep 45 states he did not join a guerrilla organization because organization in Cavite City were law breakers (the city in which he was Mayor). He left the office of Mayor on 7 Feb 45 when guerrillas occupied the city. On this date he asked help of 11th Airborne to come in and take the city over. He helped the new government in Cavite City in an unofficial capacity until 30 Mar 45, when he went to his home in Naic, Cavite. He returned to military control on 15 May 45 at 5th Replacement Depot. On 18 Oct 47, S/I appealed his non casualty status, claiming serious deprivation and material restraint. On 23 Dec 47 CG, PC advised claim not favorably considered as evidence does not prove serious deprivation. On 9 Jan 48 S/I again appealed his status to TAG thru channels, claiming his case was like that of Colonel Rafael L. Garcia. 5th Indorsement of CG, PRC to TAG recommended reiteration of prior determination of 16 May 46, that S/I was NIGS for period 19 Apr 42 to 14 May 45 based on no evidence of serious deprivation or material restraint. TAG G #1 6 Apr 48 to Secretary of the Army's Personnel Board thru Director, Pers. & Adm. Div, GSUSA, commenting on fact that S/I, after his release from POW camp, lived on his own savings, then was paid \$150.00 per month by Department of Justice, \$200.00 per month by Department of Interior and \$220.00 per month plus \$10.00 per day as Mayor of Cavite City and as National Assemblyman respectively. Mention was made of provision

LIEUTENANT COLONEL RICARDO POBLETE, O15 661

of a house which was not relinquished until two months after liberation. TAG remarks on modification of policies made since date of original determination based on several appeals to Army Personnel Board and opinion rendered by JAGD in Gomez case. Recommendation made that S/I be considered in a casualty status 19 Apr 42 to 24 May 43 and not in a casualty status 25 May 43 to 14 May 45. C #3 from Secretary of the Army's Personnel Board made finding of 20 May 48 as recommended by TAG. TAG letter 27 May 48 to CG, PRC advising of Army Personnel Board's decision and desiring redetermination be made and S/I so advised. Redetermination of CG, PRC 5 Oct 48 that S/I was not in a casualty status only for period 25 May 43 to 14 May 45. S/I notified of the foregoing. Manila Tribune of 11 Mar 43 shows S/I with other ex-USAFVE officers listed as collaborators. Counter Intelligence Corps Report 27 Jun 45 indicates unfair distribution of food during administration of Poblete. S/I frequently made speeches that there was no use continuing revolt against the Japanese. He appropriated the home of an American citizen for his family residence while Mayor of Cavite, never paid rent for it, and left it in an unfit condition when he returned it to the owner two months after liberation forces occupied the city. Seven individuals interviewed by CIC state that S/I did not appear to collaborate with Japanese any more than his position required, that as an ex-USAFVE officer he was foolish to accept such a position in the first place, and his timid conduct before the Japanese was not believed worthy of an American officer.

Greater credence is given to information in original affidavit, but in this particular case even the subsequent affidavit does not prove serious deprivation, material restraint, or guerrilla service. It appears in this and other cases of this nature that the Secretary of the Army's Personnel Board rely almost completely on the recommendations made by TAG. In turn, TAG quotes position taken in Gomez case and JAGD opinion as bases for action taken; however, in this particular case TAG considers S/I not in a casualty status for period he was Mayor of Cavite City, 25 May 43 to 14 May 45. In this connection, it is not clear what fine line of distinction is drawn between being home after release from POW camp, employment with Department of Justice and Department of Interior as compared with employment as Mayor of Cavite City. It is true that TAG mentions higher salary and no serious deprivation as basis for non-casualty status for period as Mayor of Cavite City. It is not believed that the foregoing criterion was considered in the cases of other individuals whose appeals were presented to the Secretary of the Army's Personnel Board. In the case of Colonel Rafael Garcia, he sold his house for ₱150,000.00 on 1 Oct 43, borrowed ₱6,000.00 and was paid ₱2,168.32 on 19 Oct 42 from Philippine Refining Co. (signed by H. Miyajima, Mitsui Bussan Kaisha). Colonel Peralta and Lieutenant Colonel William F. Gempeler state Garcia was furnished an undisclosed amount of money while he was on Panay Island in early 1942 which had not been accounted for. It would appear that since non-casualty status was upheld by Army Personnel Board for Poblete for period 25 May 43 to 14 May 45, with equal force non-casualty status should be applicable for Garcia for similar reason.

LIEUTENANT COLONEL RICARDO POBLETE, 015 661

There is no evidence he actively joined a guerrilla force or that he actively participated in the anti-Japanese movement during the occupation. There is no evidence of serious deprivation or material restraint during the period 19 Apr 42 to 14 May 45 that was greater than that generally suffered by other residents of the Philippines.

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as follows:

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	8 Apr 42 ✓
Prisoner of War	9 Apr 42	18 Apr 42 ✓
Missing in Action	19 Apr 42	30 Apr 42 ✓
No Casualty Status	1 May 42	14 May 45 ✓

LIEUTENANT COLONEL EMMANUEL S. CEPEDA, 019 297

1. Problem: Whether subject individual was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Subject individual was a cadet at the United States Military Academy from 1929 to 1933. Appointed second lieutenant (Philippine Scouts) 13 June 1933. Accepted commission 13 June 1933 at West Point.

b. At the outbreak of war, S/I was on detail with the Philippine Army as Inspector, Philippine Army Mobilization Training Program.

c. Affidavit of S/I dated 15 Oct '45 states he was on Bataan during the surrender there 9 Apr 42. He escaped from Camp O'Donnell 29 Apr 42, and was in hiding in his home until 22 Nov 42, date he reported to the Japanese for amnesty. In January 1944 he went to live in Cagayan, where he was closely watched by the Japanese. On 16 Dec 44 he was arrested by the Japanese Military Police. He escaped from jail 20 Feb 45 and proceeded to Headquarters, 11th Infantry, USAFIP-NL at Tuao, Cagayan, where he reported for duty 23 Feb 45. On 1 Mar 45 he transferred to GHQ, USAFIP-NL and was assigned as Asst. G-3. Returned to military control on 15 Oct 45 at 29th Replacement Depot, APO 238.

d. Loyalty Status Memorandum USAF, WESPAC, 2 May 46: Loyalty status not in question.

e. Determination of USAF, WESPAC, APO 707, 16 May 46, held S/I had following grade and status:

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Captain	1 Dec 41	14 Oct 45

  

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	8 Apr 42
Prisoner of War	9 Apr 42	28 Apr 42
Missing in Action	29 Apr 42	21 Nov 42
NICS: Par. 1g, Sec. IV, WD Plan	22 Nov 42	9 Jan 43
NICS: Employed by Puppet Gov't.	10 Jan 43	15 Oct 43
NICS: Par. 1g, Sec. IV, WD Plan	16 Oct 43	15 Dec 44
Prisoner of War	16 Dec 44	19 Feb 45
Missing in Action	20 Feb 45	14 Oct 45

(Date of return to military control: 15 Oct 45)

LIEUTENANT COLONEL EMMANUEL S. CEPEDA, 019 297

f. Redetermination, USAF, WESPAC, APO 707, 27 Jun 46: ✓

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Captain	1 Dec 41	21 May 45 ✓
Lieutenant Colonel	22 May 45	14 Oct 45 ✓

  

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	8 Apr 42 ✓
Prisoner of War	9 Apr 42	28 Apr 42 ✓
Missing in Action	29 Apr 42	21 Nov 42 ✓
No Casualty Status	22 Nov 42	15 Dec 44 ✓
Prisoner of War	16 Dec 44	19 Feb 45 ✓
Missing in Action	20 Feb 45	14 Oct 45 ✓

(Date of return to military control: 15 Oct 45) ✓

g. Appeal of subject individual for arrears in pay, letter of 25 Jul 46. ✓

h. 3rd Indorsement, USAF, WESPAC 30 Aug 46: S/I informed his appeal not favorably considered. ✓

i. Redetermination of Commanding General, Philippines-Ryukyus Command, APO 707, 18 Aug 47, of S/I's status: ✓

Duty	1 Dec 41 - 7 Dec 41 ✓
Beleaguered	8 Dec 41 - 8 Apr 42 ✓
Prisoner of War	9 Apr 42 - 28 Apr 42 ✓
Missing in Action	29 Apr 42 - 7 Mar 43 ✓
No Casualty Status	8 Mar 43 - 15 Dec 44 ✓
Prisoner of War	16 Dec 44 - 19 Feb 45 ✓
Missing in Action	20 Feb 45 - 14 Oct 45 ✓

(Date of return to military control: 15 Oct 45) ✓

j. Appeal of S/I dated 8 Jan 48 to Secretary of the Army's Personnel Board thru channels for status covering period 22 Nov 42 to 15 Dec 44. He alleges he was under constant surveillance of the Japanese, both in Manila and Cagayan, and hence deprived of reasonable freedom of action and opportunity for livelihood. Employment in Puppet Government (February 1943) was accepted in order to avoid service in the military organization. Cases similar to his were previously adjudicated adversely and have now been favorably considered by the War Department. (Colonel Juan P. Moran, Colonel Pastor Martelino, Lieutenant Colonel Fidel V. Segundo, Major Alejandro Garcia, Colonel Amado Martelino and Colonel Rafael L. Garcia). ✓



LIEUTENANT COLONEL EMMANUEL S. CEPEDA, 019 297

In affidavit 7 Jan 48, S/I states he hid in his attic seven months after escape from concentration camp until he reported for amnesty 22 Nov 42. He states that the Japanese in concentration camp understood he was dead and had been so reported. He was able to put off acceptance of Puppet Government employment on grounds of sickness. He finally accepted such employment 8 Mar 43. On 22 Oct 43 he escaped with his family from Manila to Tuguegarao, Cagayan. He was arrested 16 Dec 44 and taken to Bilibid Prison, from which place, after torture, he was able to escape on 20 Feb 45.

k. 1st Indorsement, Commanding General, Philippines-Ryukyus Command, APO 707, 23 Mar 48, forwarding basic communication with inclosures to TAG for appropriate action. Considering determination of 18 Aug 47, NCS pertains only to period 8 Mar 43 to 15 Dec 44.

l. C #1 from TAG to Secretary of the Army's Personnel Board thru Director, Personnel & Administration Division, GSUSA, 28 Apr 48, commenting on his antagonism to the Japanese and his valuable assistance to the guerrillas. Recommendation was made that casualty status be accorded for the period 8 Mar 43 to 15 Dec 44.

m. C #3 from Secretary of the Army's Personnel Board, 18 May 48, finding that S/I was in a casualty status for the period 8 Mar 43 to 15 Dec 44.

n. Letter, TAG to CG, P-R Cmd., 28 May 48, desiring that status of S/I be redetermined in conformance with decision of Army Personnel Board, and that S/I be so advised.

o. Redetermination of CG, P-R Cmd., APO 707 dated 22 Jun 48 showing status of S/I as:

Duty	1 Dec 41 - 7 Dec 41
Beleaguered	8 Dec 41 - 8 Apr 42
Prisoner of War	9 Apr 42 - 28 Apr 42
Missing in Action	29 Apr 42 - 15 Dec 44
Prisoner of War	16 Dec 44 - 19 Feb 45
Missing in Action	20 Feb 45 - 14 Oct 45

(Returned to military control 15 Oct 45)

p. Appeal of S/I on 5 Apr 49 for redetermination of grade for period 1 Dec 41 to 21 May 45, to Secretary of the Army's Personnel Board thru channels. Subject claims he should have been promoted from captain to at least major after outbreak of war, since he was Commanding Officer of the 2nd Anti-Tank Battalion. Subject had an assimilated rank of major in the Philippine Army, but captain in the Regular Army.

LIEUTENANT COLONEL EMMANUEL S. CEPEDA, 019 297

In affidavit 7 Jan 48, S/I states he hid in his attic seven months after escape from concentration camp until he reported for amnesty 22 Nov 42. He states that the Japanese in concentration camp understood he was dead and had been so reported. He was able to put off acceptance of Puppet Government employment on grounds of sickness. He finally accepted such employment 8 Mar 43. On 22 Oct 43 he escaped with his family from Manila to Tuguegarao, Cagayan. He was arrested 16 Dec 44 and taken to Bilibid Prison, from which place, after torture, he was able to escape on 20 Feb 45.

k. 1st Indorsement, Commanding General, Philippines-Ryukyus Command, APO 707, 23 Mar 48, forwarding basic communication with inclosures to TAG for appropriate action. Considering determination of 18 Aug 47, NCS pertains only to period 8 Mar 43 to 15 Dec 44.

l. C #1 from TAG to Secretary of the Army's Personnel Board thru Director, Personnel & Administration Division, GSUSA, 28 Apr 48, commenting on his antagonism to the Japanese and his valuable assistance to the guerrillas. Recommendation was made that casualty status be accorded for the period 8 Mar 43 to 15 Dec 44.

m. C #3 from Secretary of the Army's Personnel Board, 18 May 48, finding that S/I was in a casualty status for the period 8 Mar 43 to 15 Dec 44.

n. Letter, TAG to CG, P-R Cmd., 28 May 48, desiring that status of S/I be redetermined in conformance with decision of Army Personnel Board, and that S/I be so advised.

o. Redetermination of CG, P-R Cmd., APO 707 dated 22 Jun 48 showing status of S/I as:

Duty	1 Dec 41 - 7 Dec 41
Beleaguered	8 Dec 41 - 8 Apr 42
Prisoner of War	9 Apr 42 - 28 Apr 42
Missing in Action	29 Apr 42 - 15 Dec 44
Prisoner of War	16 Dec 44 - 19 Feb 45
Missing in Action	20 Feb 45 - 14 Oct 45

(Returned to military control 15 Oct 45)

p. Appeal of S/I on 5 Apr 49 for redetermination of grade for period 1 Dec 41 to 21 May 45, to Secretary of the Army's Personnel Board thru channels. Subject claims he should have been promoted from captain to at least major after outbreak of war, since he was Commanding Officer of the 2nd Anti-Tank Battalion. Subject had an assimilated rank of major in the Philippine Army, but captain in the Regular Army.

LIEUTENANT COLONEL EMMANUEL S. CEPEDA, O19 297

q. 1st Indorsement, CG, PC, APO 707, 12 May 49 to Secretary of the Army's Personnel Board recommending disapproval of request for retroactive promotion under the Missing Persons Act, since assimilated rank in the Philippine Army is not subject to confirmation as Army of the United States rank. No record found of promotion in AUS during period 1 Dec 41 to 21 May 45, and no legal basis for a redetermination of grades under the Missing Persons Act.

r. Letter, Inspector General, PC, APO 707, 17 May 49 forwarding letter of S/I dated 5 Apr 49 and 1st Indorsement, PC, 12 May 49 to The Inspector General, Department of the Army, Washington 25, D. C. advising 1st Indorsement PC, 12 May 49 is result of review which is also concurred in by this office.

s. 1st Indorsement, The Inspector General, 3 Jun 49 to Secretary of the Army's Personnel Board forwarded for appropriate action.

t. 2nd Indorsement, Army Personnel Board to The Inspector General, 7 Jun 49 advising:

"1. Determinations under the Missing Persons Act is no longer a function of the Army Personnel Board.

"2. The appeal in the case of Lieutenant Colonel Cepeda was forwarded to The Adjutant General, his office having been designated to act on matters within the purview of the Missing Persons Act."

u. 3rd Indorsement, The Inspector General, 9 Jun 49 to TAG asking for information.

v. 4th Indorsement, TAG, 29 Aug 49 to The Inspector General inviting attention to attached copy of letter dated 10 Jun 49 to Lieutenant Colonel Cepeda in reply to his complaint.

w. Basic communication from TAG (DPRB) 10 Jun 49 to Lieutenant Colonel Cepeda thru CG, PC stating that:

"2. The Army Personnel Board is not established by statute to hear or determine any particular type of case. At the time the Board considered other cases of the nature of yours, it was made clear that no one case was to establish a precedent upon which others would be judged. It was determined that each case would be judged upon the individual merits.

"3. The Redetermination of Grades and Status of Emmanuel S. Cepeda, O-19 297, dated 27 June 1946, for the period from 1 December 1941 to 14 October 1945 was properly determined and assimilated, and rank in the Philippine Army is not subject to

LIEUTENANT COLONEL EMMANUEL S. CEPEDA, 019 297

confirmation as Army of the United States rank. Since available evidence indicates that he was not promoted in the Army of the United States during the period from 1 December 1941 to 21 May 1945, there is no legal basis for a redetermination of grades under the Missing Persons Act."

3. Discussion: Loyalty status is not involved. In affidavit of S/I of 15 Oct 45, he states he surrendered on Bataan 9 Apr 42, escaped POW camp on 29 Apr 42; in hiding in his attic until 22 Nov 42, when he reported to the Japanese for amnesty. In January 1944 he and his family went to Cagayan. The Japanese arrested him on 16 Dec 44. He escaped again on 20 Feb 45 and proceeded to Headquarters, 11th Infantry, USAFIP-ML at Tuao, Cagayan, where he reported for duty 23 Feb 45. Returned to military control 15 Oct 45 at 29th Replacement Depot. Determination of USAF, WESPAC 16 May 46 that S/I was a captain thru 14 Oct 45 and NICS 22 Nov 42 to 15 Dec 44. Redetermination of USAF, WESPAC 27 Jun 46 that S/I was captain to 21 May 45, lieutenant colonel 22 May 45 to 14 Oct 45, NICS 22 Nov 42 to 15 Dec 44. Appeal of S/I 25 Jul 46 for arrears in pay during period of NICS. USAF, WESPAC advised S/I on 30 Aug 46 his appeal was not favorably considered. Redetermination of Philippines-Ryukyus Command 18 Aug 47 that S/I was NICS 8 Mar 43 to 15 Dec 44. Appeal of S/I 8 Jan 48 to Secretary of the Army's Personnel Board thru channels, alleging serious deprivation and material restraint. States his case similar to those of Colonels Moran, Garcia, Segundo, Martelinos and Major Alejandro Garcia. Basic communication indorsed by CG, P-R Command 23 Mar 48 to TAG for appropriate action. C #1, TAG, 28 Apr 48 to S/A's Personnel Board thru Director, Personnel & Administration Division, GSUSA, recommended casualty status for period 8 Mar 43 to 15 Dec 44 based on his antagonism for the Japanese and valuable assistance to the guerrillas. C #3, S/A's Personnel Board 18 May 48 finding S/I in casualty status during period 8 Mar 43 - 15 Dec 44. Letter, TAG to CG, P-R Command 28 May 48 desiring status of S/I be redetermined in conformance with decision of S/A's Personnel Board and S/I so advised. Redetermination made by CG, P-R Command, 22 Jun 48 that S/I was in a casualty status as ordered by S/A's Personnel Board. Appeal of S/I to S/A's Personnel Board 5 Apr 49 thru channels for redetermination of grade. Claims he should be major or lieutenant colonel after the outbreak of war. 1st Indorsement, CG, PC 12 May 49 to S/A's Personnel Board recommending disapproval since assimilated rank in the Philippine Army is not subject to confirmation as AUS rank. No record found of promotion in AUS during period 1 Dec 41 to 21 May 45, and no legal basis for a redetermination of grades under the Missing Persons Act. Basis communication, Inspector General, PC, 17 May 49 forwarding aforementioned 1st Indorsement to The Inspector General, Washington advising concurrence with view of CG, PC. 1st Indorsement, The Inspector General 3 Jun 49 to S/A's Personnel Board for appropriate action. 2nd Indorsement, S/A's Personnel Board to The Inspector General 7 Jun 49 advising determination under Missing Persons Act no longer a function of the Army Personnel Board, and that appeal had been forwarded to TAG for handling, since his office was designated to act on matters within the purview of the Missing Persons Act. 3rd Indorsement, The Inspector General, 9 Jun 49 to TAG.

10 Jun 49, to S/I. Letter 10 Jun 49 states each case will be determined on its own merits and rank held in the Philippine Army is not subject to confirmation as AUS rank. Since no record was found to show he was promoted in AUS during period 1 Dec 41 to 21 May 45, no legal basis for redetermination of grades under the Missing Persons Act.

It is noted in this case that the S/A's Personnel Board advised The Inspector General 7 Jun 49 that determinations under the Missing Persons Act were no longer a function of that Board, and that The Adjutant General was designated to act on matters within the purview of the Missing Persons Act. It is not clear why subject officer should hide in his attic until November 1942, when other officers in a similar position did not find such an action necessary. Since POW records showed that he was dead, it would seem more appropriate for him to have assumed another name and moved to an area where he and his family were not known. In this connection, it is apparent that he and other officers in Manila evidently followed the line of least resistance and accepted that course of action which was first presented, amnesty under Proclamation No. 1, with employment in the Puppet Government, when they could have established themselves in parts of the Philippines that were in need of guerrilla organization and supervision. Undoubtedly they were concerned about their families, but in view of their rank it is questionable whether their families were helped by their presence and in at least four instances, these officers stayed in Manila too long for their own good.

There is no evidence to indicate that he actively joined a guerrilla organization before 23 Feb 45, or that he actively participated in the anti-Japanese movement before 16 Dec 44. There is no evidence of material restraint or serious deprivation during the period 29 Apr 42 to 15 Dec 44 that was greater than that generally suffered by other residents of the Philippines.

4. In the event a determination would be made at the present time, based on the above facts, his status would be substantially as held by CG, USAF, WESPAC on 27 Jun 46:

Duty	1 Dec 41 - 7 Dec 41	✓
Beleaguered	8 Dec 41 - 8 Apr 42	✓
Prisoner of War	9 Apr 42 - 28 Apr 42	✓
Missing in Action	29 Apr 42 - 12 May 42	(change) ✓
No Casualty Status	13 May 42 - 15 Dec 44	✓
Prisoner of War	16 Dec 44 - 19 Feb 45	✓
Missing in Action	20 Feb 45 - 14 Oct 45	✓

(Returned to military control 15 Oct 45). ✓

155

LIEUTENANT COLONEL PIO Q. GALUYA, 014 883

1. Problem: Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Appointed second lieutenant, Regular Army (Philippine Scouts) with rank from 1 Nov 21, letter TAG, WD, 18 Nov 21. Accepted appointment on 21 Nov 21 with the Philippine Department, Manila, Philippines.

b. At outbreak of war, was detailed as Assistant Chief of Staff, G-4, PA Headquarters under Brigadier General Basilio Valdez, Chief of Staff, Philippine Army.

c. Promotion to lieutenant colonel, RA effective 1 Nov 44, par B, WD SO 293 dated 7 Dec 44.

d. Affidavit of subject dated 24 Feb 45 states that he was captured by the Japanese 9 Apr 42 and that he was kept in POW camp until 10 Aug 42. In December 1942 he states he became Inspector for Philippine Exec. Commission and continued in this until October 1943. From October 1943 to September 1944 he was a Commerce Agent. On 30 Oct 44 he escaped from Manila with his family into the fish pond regions of Bulacan, where he attempted to reconcile various guerrilla units until he reported to military control and duty at 12th Replacement Battalion, APO 70, 6 Feb 45.

e. Determination of Commanding General, United States Army Forces in the Far East, APO 501, 6 June 45:

(1) <u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major	1 Dec 41	31 Oct 44
Lieutenant Colonel	1 Nov 44	5 Feb 45

(2) <u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41
Beleaguered	8 Dec 41	8 Apr 42
Prisoner of War	9 Apr 42	9 Aug 42
Missing in Action	10 Aug 42	30 Nov 42
Absent from post of duty	1 Dec 42	5 Feb 45
(Employed by Japanese Puppet Government from 1 Dec 42)		

f. TAG letter of 9 Jul 45 to CIC, USAF, PAC, APO 500 does not concur with "absent from post of duty" recorded in foregoing determination, but that subject should be not in a casualty status and therefore not entitled to pay for the period 1 Dec 42 to 5 Feb 45. TAG made settlement of account based on the foregoing.

g. TAG letter of 30 Jan 46 to CG, USAF, WESPAC differentiates between the cases of Colonel Pastor Martelino and subject, stating that based on additional information from Brigadier Generals McGaw and Feller, and further study, it was held that Martelino was in a casualty status for the period 7 May 42 to 30 Jan 46. Status was given to Martelino because he engaged in underground activity and suffered restraint and loss of freedom because of being under constant surveillance of the Japanese during such time as he was in their employ, whereas Colonel Caluya suffered little enemy restraint and no serious deprivation by reason of his official military status and was not deprived of reasonable freedom of action or opportunity of livelihood.

h. Loyalty Report of USAF, WESPAC dated 10 May 46 held that as a result of subject's "Death March" and imprisonment his health was not good for one year; from December 1942 to 30 Oct 44 he held position of Commerce Agent under Philippine Exec. Commission and Puppet Government; he left Manila with his family at the end of October 1944 for fear of his life and lived in Bulacan under an assumed name until date of return to military control, 6 Feb 45, at the 12th Replacement Battalion, APO 70.

USAF, WESPAC held on 15 May 46 that S/I remained continuously loyal to the United States throughout the period 9 Apr 42 to 6 Feb 45, date he returned to military control.

Affidavits submitted with loyalty report give the following information:

Affidavit dated 26 Mar 46 of family physician, Captain Adolfo N. Rocoza, MC, PA, states he treated subject from date of release from POW camp to middle of 1944 because of sickness acquired in prison camp. Subject accepted work with Bureau of Commerce against his advice in view of his poor health.

Affidavit dated 27 Mar 46 of Luis Martinez, Major, MC, PA, states he treated S/I while he was Resident Physician at San Lazaro Hospital during 1943 and 1944.

Affidavit dated 22 Mar 46 of Pedro M. Cruz, Major, MC states he treated S/I for malaria during 1943.

Affidavit of M/Sgt. Conrado B. Brillantes (PA) dated 26 Mar 46 states that during Japanese occupation he knew Colonel Caluya was working in the Bureau of Commerce.

i. On 4 Oct 47 in letter to TAG thru channels, subject (then at APO 707) appealed his status for the period 1 Dec 42 to 5 Feb 45, alleging that he was missing in action until 5 Feb 45, denied freedom of action, his family suffered serious deprivation, he was employed under duress and that he was engaged in anti-Japanese movements.

j. 1st Indorsement of CG, Philippines-Ryukyus Command dated 20 Feb 48 transmitted appeal letter of 4 Oct 47 to TAG with recommendation that the previous position of TAG as set forth in letter of 9 Jul 45 (2a) be reiterated.

k. TAG letter 25 May 48 to CG, Philippines-Ryukyus Command advising that the Army Personnel Board had determined subject in a casualty status from 1 Dec 42 to 5 Feb 45 and desiring the CG to redetermine subject's status in accordance with decision of Army Personnel Board, and that Lt Col Caluya be so advised.

l. Redetermination of CG, Philippines-Ryukyus Command dated 16 Jul 48: (Issued in compliance with 2k above):

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Duty	1 Dec 41	7 Dec 41 ✓
Beleaguered	8 Dec 41	8 Apr 42 ✓
Prisoner of War	9 Apr 42	9 Aug 42 ✓
Missing in Action	10 Aug 42	5 Feb 45 ✓

m. Subject retired (Service) 31 Jul 53, par. 47, SO #147, DA 29 Jul 53 at Fort Knox, Kentucky, as a lieutenant colonel, RA, Artillery.

3. Discussion: Original determination USAFFE 6 Jun 45 held subject absent from post of duty 1 Dec 42 to 5 Feb 45. TAG held on 9 Jul 45 subject not absent from post of duty, but not in a casualty status with entitlement to pay for the period mentioned previously. Loyalty Report 10 May 46 gives data regarding employment with Puppet Government agency during the Japanese occupation. Left Manila for fear of his life in October 1944 for Bulacan, where he stayed until he returned to military control on 6 Feb 45. USAF, WESPAC held on 15 May 46 subject considered loyal to United States during the Japanese occupation. Affidavits of attending doctors mention treatment for sickness (kind not stated, and malaria). On 4 Oct 47 subject appealed his non casualty status to TAG thru channels. 1st Indorsement CG, PC, 20 Feb 48 recommended reiteration of TAG determination of 9 Jul 45 (NICS for period 1 Dec 42 to 5 Feb 45). TAG letter 25 May 48 to CG, PC advising determination made by Army Personnel Board subject in casualty status for period 1 Dec 42 to 5 Feb 45 and desiring that Cmd make redetermination and so advise subject. On 16 Jul 48, CG, PC made required redetermination.



LEUTENANT COLONEL PIO Q. CALUYA  
014 883

It appears from TAG determination of 9 Jul 45 it was believed S/I NICS for period 1 Dec 42 to 5 Feb 45. On 30 Jan 46 in letter to CG, USAF, WESPAC this stand is again made that the cases of Martelino and Caluya were dissimilar in that Caluya suffered little enemy restraint and no serious deprivation and was not deprived of reasonable freedom of action. With this background, the Army Personnel Board makes a determination that subject was in a casualty status for the period 1 Dec 42 to 5 Feb 45. It is evident that although he was given treatment by doctors he was not sick enough that he could not work with the Philippine Exec. Commission and the Bureau of Commerce.

There is no evidence to indicate that he actively joined a guerrilla force or that he actively participated in the anti-Japanese movement. There is no evidence of serious deprivation or material restraint during the period 1 Dec 42 to 5 Feb 45 that was greater than that generally suffered by other residents of the Philippines.

4. In the event a determination would be made at the present time based on above facts, his status would be substantially as held by USAFFE and TAG in 6 Jun and 9 Jul 1945 respectively:

Duty	1 Dec 41 - 7 Dec 41 ✓
Beleaguered	8 Dec 41 - 8 Apr 42 ✓
Prisoner of War	9 Apr 42 - 9 Aug 42 ✓
Missing in Action	10 Aug 42 - 30 Nov 42 ✓
Not in Casualty Status	1 Dec 42 - 5 Feb 45 ✓

Colonel Juan P. Moran, OIA 791

1. **Problem:** Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. **Facts:**

a. Appointed second lieutenant, Regular Army (Philippine Scout) rank from 4 August 1921. Accepted commission on 22 September 1921, with the Philippine Department, Manila, Philippines.

b. At outbreak of war assigned Headquarters & Service Troop, 26th Cavalry Regiment (PS) and attached as Chief of Staff, 11th Division (PA) with rank of major. Promoted to colonel on 31 Mar 42.

c. Colonel Moran's wife, Mrs. Feliza Gomez Vda de Moran, in statement of 2 Sep 49, states that her husband escaped when the forces surrendered on Bataan and that he was sick and in hiding until the date of Japanese amnesty in September 1942.

d. C/S 7 Jul 45 from Liaison Officer to Colonel Graham, subject: Colonel Juan S. Moran (PS). Colonel Monsano strongly advised S/I not to accept position offered by Puppet Government. Others similarly advised him.

e. Extract from affidavit of Virginio P. Enriquez dated 24 Jul 45 states he took S/I to San Rafael, Bulacan in July 1942 from where he had met him in hiding at Masantol, Pampanga in June 1942. He expressed desire to help with resistance movement. Subject left San Rafael for Manila latter part of July 1942. In August 1942 Enriquez asked Colonel Moran about joining Squadron 84, USAFFE Luzon Guerrillas. S/I stated he was willing but could not do so because he had an organization of Philippine Scouts doing underground work in Manila.

f. Statement of Colonel N. I. Monsano, GE, 26 Jul 45. Colonel Moran offered and accepted a position in office of Food Administration under Puppet Government without coercion. Accepted above position because would not need to serve in Constabulary, as lesser of two evils.

g. Determination of Headquarters, United States Army Forces, Western Pacific, APO 707, 27 December 1945:

Beleaguered	8 Dec 41 - 6 May 42
Missing in Action	7 May 42 - 30 Sep 42
No Casualty Status	1 Aug 42 - 25 Oct 44
Prisoner of War	26 Oct 44 - Presumed date of death

h. TAG presumed date of death established as 1 February 1946.

1. Redetermination of Headquarters, Philippines Command, APO 707 dated 6 October 1948 giving status as follows:

Beleaguered	8 Dec 41 - 9 Apr 42
Missing in Action	10 Apr 42 - 26 Oct 44
Prisoner of War	27 Oct 44 - 7 Jan 45, date of death
Missing in Action	8 Jan 45 - 1 Feb 46

Killed in Action 7 Jan 45, No. Cemetery, Manila, Philippines.  
Executed by the Japanese.

j. In the case of Gubaton, Federico, 6 739 640, the Chief, Military Affairs Division, Judge Advocate General's Office, C #3 20 Aug 54, held that, "It is the opinion of this office that a finding of casualty status after a period of 'no status' under the Act legally may be made only where the facts and circumstances clearly indicate a resumption of casualty status (e.g., service with a recognized guerrilla unit, resumption of a prisoner of war status)."

3. Discussion: Original determination of United States Army Forces, Western Pacific dated 27 Dec 45, held that S/I was not in a casualty status from 1 Aug 42 to 25 Oct 44. TAG presumptive date of death on 1 Feb 46 gave status through 1 Feb 46. Redetermination resolving case by date of death on 7 Jan 45 followed the practice obtaining at that time (Philippines Command 6 Oct 48) and concluded S/I in casualty status from 8 Dec 41 thru presumed date of death, 1 Feb 46 (2 h)

It appears from the foregoing that S/I went to Manila from San Rafael about 1 August 1942 of his own volition and without coercion, but against the advice of other individuals accepted a position with a Puppet Government agency.

While he evidently helped guerrilla units and individuals, there is no evidence which would indicate that he actively joined a guerrilla force or actively participated in the anti-Japanese movement, until date of capture 27 Oct 44. There is no evidence of serious deprivation or material restraint during the aforementioned period, greater than that generally suffered.

4. In the event a determination would be made at the present time based on above facts, his status would be substantially as follows:

Beleaguered	8 Dec 41 - 8 Apr 42
Missing in Action	9 Apr 42 - 31 Jul 42
No Casualty Status	1 Aug 42 - 26 Oct 44
Prisoner of War	27 Oct 44 - 7 Jan 45, date of death
Absent in a pay status (Sec. 2, PL 490)	8 Jan 45 - 1 Feb 46

MAJOR ALEJANDRO D. GARCIA, 015 323

1. **Problem:** Whether subject individual was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. **Facts:**

a. Attended the United States Military Academy from 13 June 1919 to 12 June 1923. He was appointed second lieutenant in the Philippine Scouts on 18 June 1923 to rank from 12 June 1923.

b. At the outbreak of war he was on detached service with the Philippine Commonwealth Army as Superintendent, Executive Officer and Staff Judge Advocate of Philippine Military Academy at Baguio and Manila.

c. Manila Tribune dated 2 Oct 42 advises that Alejandro D. Garcia, former prisoner of war at Camp O'Donnell, was to be released 3 Oct 42 from Camp Dau.

d. C/N from Legal Officer, Lieutenant Colonel Rudolph Bungardner, JAGD, 6 Mar 46 to Director, Recovered Personnel Division, protesting "reworking" of this case from NCS 31 Oct 42 to 21 Dec 44 to casualty status for entire period. No evidence found to establish that S/I suffered restraint or serious deprivation during period by reason of his former official status as an Army officer. No evidence that appointment as Military Governor was accepted under duress. He does not consider the reasons which formed the basis for the War Department's redetermination in the Marcelino and Segundo cases have been indicated with sufficient clarity. He cannot consider the proposed action (casualty status for entire period) is in accordance with his best professional judgment.

e. Determination of Commanding General, United States Army Forces, Western Pacific, APO 707, 19 Mar 46 that S/I was in a casualty status 8 Dec 41 to 18 Dec 44 (not signed - marked through as Draft).

f. Determination of USAF, WESPAC 19 Mar 46 (SR&D #1541):

<u>GRADE</u>	<u>FROM</u>	<u>TO</u>
Major		
<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Beleaguered	8 Dec 41	8 Apr 42
Prisoner of War	9 Apr 42	30 Oct 42
Not in Casualty Status	31 Oct 42	14 Dec 44
Prisoner of War	15 Dec 44	18 Dec 44

(Killed - executed by the Japanese on 18 Dec 44 at Manila, Philippines).

MAJOR ALEJANDRO D. GARCIA, 015 323

g. Report of Death issued by TAG 21 May 46 showing S/I killed in action 18 Dec 44 and status as:

Beleaguered	8 Dec 41 to 6 May 42
Missing in Action	7 May 42 to 14 May 46, when evidence considered sufficient to establish fact he was killed on 18 Dec 44 in the Philippines was received by the Secretary of War from Commanding General, Pacific Area.

h. Corrected Report of Death issued by TAG 17 Jan 47 showing S/I killed in action 18 Dec 44 and status as:

Beleaguered	8 Dec 41 to 6 May 42
Missing in Action	7 May 42 to 30 Oct 42
No Casualty Status	31 Oct 42 to 14 Dec 44
Missing in Action	15 Dec 44 to May 46, (when evidence considered sufficient to establish the fact of death 18 Dec 44 was received by the War Department)

i. Letter of Mrs. Dolores C. Garcia, 20 Nov 48, to Secretary of the Army advising that her husband could not have died 18 Dec 44 as reported by the Secretary of the Army because he was not picked up by the Japanese from their home in Nueva Ecija until 22 Dec 44. She also has a letter written by him in Manila dated 23 Dec 44 telling her not to worry.

j. Investigation Branch, Adjutant General Records Depository, File #444, 8 Mar 49, also concludes from summary of affiants' statements that S/I was picked up by the Japanese on 22 Dec 44.

k. Corrected determination of CG, PC, 16 Sep 49 (SR&D #1541):

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Beleaguered	8 Dec 41	9 Apr 42
Prisoner of War	10 Apr 42	30 Oct 42
No Casualty Status	31 Oct 42	21 Dec 44
Prisoner of War	22 Dec 44	31 Dec 44 (date killed in action at Chinese Cemetery, Manila, Philippines)

Above mentioned SR&D includes also the following:

Affidavit of wife of S/I, Dolores C. Garcia, 28 Nov 45, states that upon release from concentration camp her husband engaged in a lime business until 27 Oct 44, when he was forced by the Puppet President, Jose P. Laurel, to become Military Governor of the province of Nueva Ecija.

MAJOR ALEJANDRO D. GARCIA, 015 323

Affidavit of S/I's wife, Dolores C. Garcia, 5 May 49, advising that Japanese picked up her husband and took him from their home in Cabanatuan, Nueva Ecija on 22 Dec 44 for investigation in Manila. On 26 Dec 44 she received a letter from her husband dated 23 Dec 44 telling her not to worry.

Statement of Richard M. Sakakida, 12 Feb 46, states he was required to serve as interpreter during 1944 for Colonel Nishihara Hideo, JA of Courts Martial on Island of Luzon. About the 15th of December Major Alejandro Garcia of the Philippine Scouts was brought before the Court Martial at Old Bilibid Prison in the City of Manila, charged with being a guerrilla, convicted and sentenced to be executed. He was informed that Major Garcia was decapitated in No. Cemetery, Manila, approximately three days after sentence was passed.

1. Corrected Report of Death issued by Demobilized Personnel Records Branch 28 Nov 49 showing S/I killed in action 31 Dec 44 and status as follows:

Beleaguered	8 Dec 41 to 9 Apr 42 ✓
Prisoner of War	10 Apr 42 to 30 Oct 42 ✓
No Casualty Status	31 Oct 42 to 21 Dec 44 ✓
Prisoner of War	22 Dec 44 to 31 Dec 44 (date KIA)
Missing in Action	1 Jan 45 to 4 May 46 (when evidence considered sufficient to establish fact of death on 31 Dec 44 was received by Department of the Army)

3. Discussion: Loyalty status is not involved. Manila Tribune of 2 Oct 42 states S/I scheduled for release from Camp Dau 3 Oct 42. Wife of S/I states in affidavit of 28 Nov 45 that upon release from concentration camp, S/I engaged in the lime business until 27 Oct 44, when he was forced to become Military Governor of the province of Nueva Ecija. In affidavit of 5 May 49 she states Japanese picked up her husband for investigation on 22 Dec 44. Legal Officer, Lieutenant Colonel Bumgardner, in C/N of 6 Mar 46 protests "reworking" of case from NCS 31 Oct 42 to 21 Dec 44 to casualty status for entire period. Original determination of USAF, WESPAC 19 Mar 46 in 201 file giving status for entire period was never signed. Signed original determination of USAF, WESPAC 19 Mar 46 concurred in by Lt Col Bumgardner, held S/I NICS from 31 Oct 42 to 21 Dec 44. Report of Death issued by TAG 21 May 46 gave status for entire period. Corrected Report of Death dated 17 Jan 47 shows S/I NICS for period 31 Oct 42 to May 46. On 20 Mar 48 widow advised date of death as 18 Dec 44 wrong, since her husband was not picked up by the Japanese until 22 Dec 44. Investigation Branch, AGRD on 8 Mar 49 also make the same conclusion. On 16 Sep 49 CG, PC issued a corrected SR&D showing S/I killed in action 31 Dec 44 and added widow's affidavits to this effect.

MAJOR ALEJANDRO D. GARCIA, 015 323

Prior determination was based on Interpreter's statement (Richard M. Sakakida) 12 Feb 46 that S/I was court martialled about 15 Dec 44 and executed three days later by the Japanese. Corrected Report of Death issued by DFRB on 28 Nov 49 showing date of death as 31 Dec 44 and continuing non casualty status period from 31 Oct 42 to 21 Dec 44.

In this particular case there was no appeal to the Secretary of the Army's Personnel Board. It appears that originally on 19 Mar 46 USAF, WESPAC had agreed to show S/I not in a casualty status 31 Oct 42 to 21 Dec 44, and then changed their minds. Lieutenant Colonel Bumgardner, AGD, Legal Officer, protested change, stating that he did not consider the War Department's redetermination of the Martelino and Segundo cases had been indicated with sufficient clarity and that he found no evidence that S/I suffered restraint or serious deprivation during the period involved. USAF, WESPAC then determined case as no casualty status for period 31 Oct 42 to 21 Dec 44 on 19 Mar 46 (Corrected Report). TAG first issued Report of Death for entire period on 21 Mar 46 and then cancelled this on 17 Jan 47 to show the aforementioned NCS period.

There is no evidence he actively joined a guerrilla force or that he actively participated in the anti-Japanese movement before 22 Dec 44. There is no evidence of serious deprivation or material restraint during the period 31 Oct 42 to 21 Dec 44 that was greater than that generally suffered by other residents of the Philippines.

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as held in determination of 16 Sep 49:

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Beleaguered	8 Dec 41	8 Apr 42
Prisoner of War	9 Apr 42	30 Oct 42
No Casualty Status	31 Oct 42	21 Dec 44
Prisoner of War	22 Dec 44	31 Dec 44 (date KIA at Chinese Cemetery, Manila, Phils.)
Absent in a Pay Status (Sec. 2, FL 490)	1 Jan 45	14 May 46 (date evidence of death received by Secretary of the Army)

Records indicate payment to estate in the amount of \$20,538.27 on 30 Jan 47 (GAO Claim No. 065 4245 and GAO Certificate No. 1505689).

BRIGADIER GENERAL VICENTE LIM, O3 722 RA (PS) ✓  
O 112 201 (PA) ✓

1. Problem: Whether subject was entitled to status under provisions of Section 2 of the Missing Persons Act for the entire period of the Japanese occupation.

2. Facts:

a. Subject individual was a retired Philippine Scout officer. Retired from the Regular Army (PS) 30 Jun 36 as lieutenant colonel. No record found of recall to active duty with the Regular Army or Army of the United States subsequent to 30 Jun 36. Subsequent service was with the Philippine Army since 1 Jul 41.

b. At the outbreak of war, S/I was on duty as Commanding Officer of the 41st Division (PA) (originally called up for active duty on 1 Oct 41 for service in Armed Forces of the United States in the Philippines as brigadier general, SO #26, 24 Sep 41, USAFFE).

c. Affiants state in affidavits that S/I surrendered on Bataan 8 Apr 42 and was a prisoner of war from 9 Apr 42 to 1 Jul 42, date prior to release from Camp O'Donnell, Capas, Tarlac, Philippines. He was hospitalized for the greater part of the period from 2 Jul 42 to 15 Jun 44 at the Doctors Hospital and the Cancer Institute, Philippine General Hospital, Manila. (Unknown portion of above due to feigned sickness to avoid employment in Puppet Government). Plans were made for escape to Australia but he and his party were captured off Mindoro Island about the middle of June 1944 and taken to Fort Santiago. It is believed General Lim was at Fort Santiago and Bilibid Prison until the date of his execution by the Japanese on 31 Dec 44.

d. Watari Group Intelligence Report B No. 155, 21 Jun 44:

"2. On 5 Jun the original Chief of Staff of the American Filipino Army Maj Gen Vicente Lim, and 14 subordinates were captured by our Sea Patrol Unit (Kaijo Kensakutai) at sea off the north coast of Mindoro. Strict surveillance of the high ranking Filipino officers who are graduates of America's West Point Military Academy is necessary."

e. TAG held on 11 Nov 45 that Brigadier General Vicente Lim, O3 722, Inf (PA) was presumed to have died 11 Nov 45.



BRIGADIER GENERAL VICENTE LIM, O3 722 RA (PS)  
O 112 201 (PA)

f. Determination by Commanding General, Philippines-Ryukyus Command, APO 707, 6 Mar 48 for Brigadier General Vicente Lim, Army of the Philippines:

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>
Beleaguered	8 Dec 41	9 Apr 42 ✓
Prisoner of War	10 Apr 42	1 Jul 42 ✓
Missing	2 Jul 42	4 Jun 44 ✓
Prisoner of War	5 Jun 44	10 Nov 44 ✓
Missing	11 Nov 44	11 Nov 45 ✓

g. On 24 Sep 48 the Commanding General, PC requested an opinion of the Comptroller General, Washington 25, D. C. It was the opinion of that office that Mrs. Lim is not entitled to the retired pay of her husband as a Philippine Scout as well as active duty pay while with the Philippine Army.

h. TAG advised CG, PC on 10 Feb 49 that the Department of the Army issued a Report of Death showing S/I killed in action on 31 Dec 44, the last day of the month in which he was executed (by the Japanese in Manila).

i. On 2 Aug 49 the Comptroller General of the United States advised Mrs. Lim that no payment of retired pay as a Philippine Scout may be made in this case for any period for which payment of pay and allowances was made for services in the Philippine Army (estate received payment for the period 1 Mar 42 to 11 Nov 45, presumptive date of death).

j. On 4 Jan 50 Adjutant General Records Depository advised the Veterans Administration of the following determination:

Beleaguered	8 Dec 41 to 9 Apr 42 ✓
Prisoner of War	10 Apr 42 to 1 Jul 42 ✓
No Casualty Status	2 Jul 42 to 4 Jun 44 ✓
Prisoner of War	5 Jun 44 to 12 Oct 44 ✓
Missing in Action	13 Oct 44 to 13 Oct 45 ✓

3. Discussion: Subject individual was a retired Philippine Scout officer. Retired from the Regular Army (PS) 30 Jun 36 as lieutenant colonel. No record of recall to active duty with the Philippine Scouts or the Army of the United States; at the outbreak of war, S/I was on duty with the Philippine Army as Commanding Officer, 41st Division in grade of brigadier general. Affiants state S/I surrendered on Bataan 8 Apr 42, was prisoner of war 9 Apr 42 to 1 Jul 42, hospitalized for greater part

BRIGADIER GENERAL VICENTE LIM, 03 722 RA (PS)  
0 112 201 (PA)

of period from 2 Jul 42 to 15 Jun 44. S/I and his party attempted to escape in June 1944 and were captured by the Japanese off Mindoro and taken to Fort Santiago, where S/I is considered to have been killed by the Japanese 31 Dec 44. Intelligence report shows General Lim and his party captured by Japanese off Mindoro Island 5 Jun 44, at which time Japanese warned that strict surveillance should be kept of high ranking Filipino officers who are graduates of West Point United States Military Academy. TAG, Washington held S/I presumed to have died 11 Nov 45 while holding rank of brigadier general in the Philippine Army. On 6 Mar 48 Commanding General, Philippines-Ryukyus Command held S/I while in Army of the Philippines was in a casualty status 8 Dec 41 to 11 Nov 45. TAG advised CG, PC on 10 Feb 49 that Department of the Army issued a Report of Death showing S/I killed in action on 31 Dec 44 (executed by the Japanese in Manila). Report of Death is probably in his Philippine Scout file. On 4 Jan 50 AGRD advised Veterans Administration S/I was not in a casualty status for period 2 Jul 42 to 4 Jun 44. On 24 Sep 48 PC requested an opinion of Comptroller General, Washington re: entitlement to pay as retired Philippine Scout and active duty with Philippine Army. On 2 Aug 49 the Comptroller General advised that no payment should be made for any period in which payment was made for services in the Philippine Army.

There is no record that S/I joined a guerrilla force or that he actively participated in the anti-Japanese movement during the occupation. There is, however, evidence of serious deprivation or material restraint during the period 2 Jul 42 to 4 Jun 44, in view of reported hospitalization. It is true that some of this sickness was feigned. It is apparent that S/I was under surveillance by the Japanese to such an extent as would force hospitalization as an alternative to accepting a position as Chief of Staff of the Bureau of Constabulary. On release from O'Donnell, S/I was sick of malaria and entered the hospital for treatment (statement of his sister-in-law, Mrs. Rodriguez). According to same affiant he entered hospital subsequently for recurrence of malaria. Another affiant and sister-in-law, Mrs. Clemente Hidalgo, states S/I was "really" sick of high blood pressure. The General's aide-de-camp, 1st Lt. Ernesto Santo, states S/I was sick of malaria, high blood pressure and dysentery on release from Camp O'Donnell. It would appear difficult to estimate at this time the proportion of actual sickness involved during the period 2 Jul 42 to 4 Jun 44 to that which was due to feigning sickness in order to avoid assignment to duty with the Puppet Government. Affiant, Doctor Pedro T. Lantin, in affidavit of 3 Mar 47, speaks of three periods of hospitalization with weekly office visits in between periods of hospitalization.

4. In the event a determination would be made at the present time based on the above facts, his status would be substantially as follows:

BRIGADIER GENERAL VICENTE LIM, 03 722 RA (PS)  
 0 112 201 (PA)

Duty	1 Dec 41 - 7 Dec 41 ✓
Beleaguered	8 Dec 41 - 8 Apr 42 ✓
Prisoner of War	9 Apr 42 - 1 Jul 42 ✓
Missing in Action	2 Jul 42 - 4 Jun 44 ✓ ?
Prisoner of War	5 Jun 44 - 31 Dec 44 ✓
Absent in a Pay Status (Sec. 2, PL 490)	1 Jan 45 - 11 Nov 45 ✓

DECLASSIFIED

Authority WJD 883078

DECLASSIFIED  
Authority AND 893678

DECLASSIFIED

Authority AND 883078