

INTERNATIONAL CRIMINAL COURT
JUDICIAL DISTRICT OF MUN

CASE NO. ICC _____

International Criminal Court,
Prosecutor

v.

William McKinley,
Defendant

BRIEF IN SUPPORT OF INTERNATIONAL CRIMINAL COURT, PROSECUTION

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INTRODUCTION

William McKinley, the 25th President of the United States, was the head of the country during the conflicts of the Philippine-American War. Directly before the Philippine altercation, the U.S., aided by the Philippines, fought against Spain in the Spanish American War because many people wanted Cuba to become independent so it would later be annexed to strengthen America as a nation. With the upper-hand in military, the United States swiftly and easily crushed an unprepared Spain, allowing The United States to decide what to do with the Philippines. President McKinley adopted the “Manifest Destiny” ideals of American expansion and annexed the Philippines.

The residents of the Philippines were displeased with the fact that the United States, who just aided them in war, was governing their territory. As a continuation of the insurrection that the Filipinos had waged against Spain, they revolted against McKinley under the leadership of General Emilio Aguinaldo. When Philippine sovereignty was transferred from Spain to the United States, the Filipinos did everything in their power to regain control of their country. When war was declared in April 1898, George Dewey sailed his Asiatic squadron to Manila Bay, but only surrounding the area, waiting until ground troops arrived within the next three months. On August 13, the capital city, Manila, was occupied by American troops. This left the rest of the country controlled by Filipino revolutionaries. In the spring of 1899, American troops relentlessly pushed north into the central Luzon Plain, causing General Emilio Aguinaldo to retreat into the inaccessible mountains. Conventional battles had ended, but radical Filipinos continued to consistently strike with guerilla tactics. To counter these guerrilla tactics, the Americans would enact “Kill and Burn” tactics in which they would regularly burn the crops and houses of the civilians. American-Philippine fighting increased on Samar in 1901 and persisted until 1906. With the insurgents adding to their own defeat, the U.S. won the battle for the Philippines, but with a large cost involved. An estimated 220,000 Filipinos were killed, died to disease, or perished in their efforts involving the war, while 4,300 American troops died in their fighting, most of whom fell ill to disease. The United States emerged as a global power and threat after gaining undisputed control of the island until 1946, but pulling them into various future conflicts against many Caribbean countries as well as Japan.

In the war with the Philippines, William McKinley caused excessive damage, numerous deaths, as well as taking part in many unjust and unlawful killings. The measures taken by President McKinley along with the United States’ generals were inhumane and exaggerated, leading to countless lives being seized without justifiable purpose. Due to the severe loss of life, property, food via destruction of fields and crops, and the torture of the Filipino people, William McKinley should be found guilty of the crimes stated.

CRIMES CHARGED

The International Criminal Court is charging William McKinley with three counts of Crimes against Humanity and two counts of War Crimes for the alleged crimes committed against the Filipino People during the Philippine-American War, as follows:

- Article 7(1a): Murder
- Article 7(1e): Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law
- Article 7(1f): Torture
- Article 8 (2a) (i): Willful Killing
- Article 8 (2a) (iv): Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly

STATEMENT OF FACTS

Foreign lands, including the Philippine islands and Cuba, were desired by Americans long before the Spanish-American war. The intent was to annex these lands as a continuation of the United States' imperialistic idea of "Manifest Destiny", which stated the nation's destiny was to expand. This ideal led to many violent conflicts and questionable choices by the United States' government, including the Ostend Manifesto. William McKinley, after his swift defeat of Spain in the Spanish-American war, looked toward the Philippines with hope of American expansion.

The Filipinos were enraged that the Americans who just aided them in their war for sovereignty were now attempting to re-conquer them in their own name. William McKinley issued the Benevolent Assimilation Proclamation, which outlined the United States' true desire to conquer the Philippines and their refusal to recognize the Philippine government. This caused Filipino military leader Emilio Aguinaldo to issue a retort, stating that the Philippines desired to be its own independent nation, and that they would be willing to defend themselves if the United States attempted to take over the nation through force. The United States saw this declaration of the wishes of the Filipinos as a declaration of war. Following this, the Philippine government attempted negotiations for peace with United States military leaders. The Filipinos were hopeful that these talks would allow for them to be recognized as a sovereign nation and end American occupation. In reality, these talks were a stalling tactic so that American reinforcements could arrive and strengthen the war effort.

At this time, General Elwell S. Otis felt ready to carry out McKinley's desires and occupy the archipelago. Fighting began on February 4th, 1899, when American troops fired upon a Filipino patrol. Thus forcing Emilio Aguinaldo to begin defensive operations to defend his people. The fighting continued in conventional fashion and saw Aguinaldo's troops massacred by the significantly better equipped and better trained United States Army. Seeing that his men were being slaughtered by a quickly advancing United States Army, Aguinaldo changed his focus to Guerrilla style combat; maintaining strong defensive measures while resulting with

fewer casualties. The war continued until the spring of 1902, when Aguinaldo had been captured and the remaining organized resistance had been put down.

In total, over 220,000 Filipinos were killed, 200,000 of which were civilians, in contrast with only 4,200 American troops killed. With the war effort over, the United States finished the conflict in the Philippines by establishing a colonial government in the Philippines against the people's wishes. Throughout the war, American troops burned villages, implemented civilian reconcentration policies, forcing Filipinos to keep identity cards and were put into "zones of protection", which forced them from their homes and had strict curfews. Any Filipino outside of the zone after curfew was given one warning before being killed. Also, any Filipino believed to be aiding the resistance or resisting American rule was tortured, often through waterboarding, until they gave information.

William Mckinley, as President, served as commander in chief of the United States army during the war, exercising the authority given to him according to Article II section 2 of the United States Constitution. In this role, McKinley had full control of the Army's actions during the war, and had disgression over what the Army did during the war. According to Article 28 of the Rome Statute, President McKinley, in his role as commander in chief of the military, is legally responsible for the actions of his inferiors that violate the Rome Statute, so long as he was informed, or should have been informed of their actions, and failed to act upon the information of the occurrences so as to lead to their immediate termination. William McKinley, in allowing for the murder, imprisonment, torture and destruction of property during the Philippine-American war, abused his power at the expense of over two hundred thousand filipino lives, and countless more who were tortured, imprisoned and left with nothing after the war.

ARGUMENT

1. WILLIAM MCKINLEY SHOULD BE FOUND GUILTY OF MURDER BECAUSE HE GAVE PERMISSION TO SOLDIERS AND GENERALS TO KILL A TOTAL OF OVER TWO HUNDRED AND TWENTY THOUSAND FILIPINOS, REGARDLESS OF GUILT, AT THEIR DISCRETION.

William McKinley, serving as Commander in chief of the United States Military during the Philippine-American war, violated Article 7(1a) of the Rome Statute, by allowing for his men to kill over two hundred and twenty thousand Filipinos, regardless of guilt.

The United States military did not view murder and the killing of prisoners as major offense. Rather, the “highest authorities declined to punish proved acts of barbarity” (Storey & Codman 1902) and “They declined to investigate... and the commander-in-chief actually proposed to punish the witness who had made the crime known, and to let the criminal go free”(Storey & Codman 1902) . Not only did William McKinley state these opinions, but “He allowed himself to say that it was not a ‘*very grievous*’ crime to kill helpless prisoners”. This is not the only instance where it was permissible because “the officers and soldiers of [the] army were given to understand that the killing of prisoners and wounded men would not be punished” (Storey & Codman 1902). The soldiers in the U.S. army had been given the permission to murder Filipino citizens from more superior authorities at their discretion.

William McKinley was the reigning authority above the Department of War, which makes him responsible for the actions of the department. He has stated that he was unaware of maltreatment and vicious actions going on in the Philippines during his presidency, but according to Henry Loomis Nelson, a very-well informed correspondent of large experience, “The administration has not been sitting in the darkness. The Department of War must have known what has been going on... Let the opposition keep their eyes on the men in Washington. Then if there is any blood to be shed as payment for maladministration, it will not be the vicarious blood of men who have [fought]” (Storey & Codman 1902). It is very clear that the leaders of the United States had been receiving information about the cruel actions of their inferiors and that mistreatment was going on against the Filipinos, and did nothing to stop the murder of Filipinos.

With the actions committed, including taking no action to stop the murder of a total of over two hundred and twenty thousand Filipinos, William McKinley and his administration must be held responsible for the unjust murders of the residents in the Philippines.

2. WILLIAM MCKINLEY SHOULD BE FOUND GUILTY OF IMPRISONMENT OR OTHER SEVERE DEPRIVATION OF PHYSICAL LIBERTY IN VIOLATION OF FUNDAMENTAL RULES OF INTERNATIONAL LAW BECAUSE HE INTENTIONALLY DEPRIVED CAPTURED FILIPINOS OF BASIC HUMAN RIGHTS AND NECESSITIES

William McKinley along with his administration intentionally and deliberately imprisoned Filipinos in concentration camps, where they were starved and deprived of natural liberties such as water, and shelter. McKinley, through the usage of concentration camps and the deprivation of natural rights, directly violated Article 7(1e) of the Rome Statute.

As United States soldier marched through the Philippines, they burned entire villages and mass amounts of farmland, which displaced many Filipinos destroyed all of their possessions. Seeing as that those displaced by the destruction had nowhere to go, the displaced Filipinos were sent to concentration camps. As prisoners in these concentration camps, no mercy was afforded to the Filipinos, many of whom were shot and killed, while those unfortunate enough to not be killed immediately were subjected to humiliating public acts of support toward the United States simply so that they would not be classified as an enemy and either tortured or killed. These acts included leading American troops to villages and towns which may have been used by the enemy and identifying their “fellow insurgents”. This led to the slaughter of innocent Filipinos and the further destruction of villages, which in turn led to overcrowding of the camps, causing deplorable conditions that were nearly unsuitable to live in. Families were forced to bring their own food and clothing, and anything they could not carry or march with was left behind.

On December 20, 1901, General Franklin Bell took the torture of prisoners further when he ordered all rice and other foods outside the camps to be burned or destroyed, for wells to be poisoned and for all farm animals to be slaughtered. This inevitably led to food and water shortages inside the camps, and many of the remaining Filipino’s began to die of starvation and thirst, and due to the overcrowding of the camps, shelter for many filipinos could not be provided, leaving them alone to withstand the elements.

The United States soldiers received the information they may have needed from the Filipinos after depriving them of natural liberties, but they consistently kept doing this. Also, according to a telegraphic message sent from J.F. Bell to all station commanders, “Every proper effort will be made to deprive those in arms in the mountains of food supplies” (Storey & Codman 1902). Notification of this action should have reached William McKinley, as not only was the telegraph capable of sending messages, but General Bell and McKinley were in constant contact throughout the war. According to Article 28 of the Rome Statute, a military commander is criminally responsible for the actions of his inferiors where the actions of said inferiors were either known, or should have been known, and were not acted upon in order to cease the inhumane treatment of victims. William McKinley’s failure to act in any way upon the deplorable conditions of the concentration camps, despite him having, or should have had information about what was occurring solidifies his violation of the Rome Statute.

3. WILLIAM MCKINLEY SHOULD BE FOUND GUILTY OF TORTURE BECAUSE HE INSTRUCTED SOLDIERS TO INFLICT SEVERE PAIN AND SUFFERING VIA WATERBOARDING TO THE FILIPINO POPULATION.

During the American-Philippine War, The United States military used waterboarding as a method of torture so as to punish Filipinos who resisted United States rule. By allowing these actions, William McKinley has violated Article 7(1f) of the Rome Statute.

It was a common practice for the American soldiers to torture the Filipino residents, gaining information that was used to aid their resistance. In 1902, the United States military caught and waterboarded any street goers that seemed “under the suspicion” of plotting against the U.S., regardless of the actual guilt of that individual. This practice was known as the “water cure”. The victim suffered incredibly, having “his sufferings be that of a man who is drowning, but cannot drown”, a description coined by Lieutenant Grover Flint during the Philippine-American war.

The United States firmly tried to censor the atrocities they were committing in the Philippines from spreading to other parts of the world. They would censor stories and prevent information from leaving the country through outgoing cables. Although there were no professional interviews or newscasts taken in the Philippines, soldiers would write home about the terrible crimes that they were committing against the Filipinos, especially against the innocent civilians. A. F. Miller, of the 32nd Volunteer Infantry Regiment, published in the Omaha *World-Herald* that his squadron was instructed to “put a round stick in the mouth and pour a pail of water in the mouth and nose, and if they don’t give up pour in another pail. They swell up like toads. I’ll tell you it is a terrible torture”. This said torture was described as being the favorite amongst the Americans and it was consistently to gain information from the opposition.

In one case involving the Secretary of War, Elihu Root, along with Lieutenant Hagedorn, the act of torture was concealed from the public. “The Secretary by silence approved the torture used in the case because it obtained information, and forgot that *“military necessity does not admit of cruelty”*. Lieutenant Hagedorn was not even reprimanded, instead complimented on his actions involving the “water cure”. In another case, a testimony from Lieutenant Flint explained instructions that were given to his squadron along with how the Macabebes acted towards the Filipino civilians. The Macabebes were scouts under the command of American sergeant Major Geary. Flint stated that the “Macabebes would then enter the houses and pull out these men and talk with them, and take them down to the well and put them through the test” (Storey & Codman 1902), and “the same thing was repeated, and our men took quite a little part in it, apparently as volunteers. They were not ordered to do so.” (Storey & Codman 1902). Due to the fact that the Secretary of War received reports from officers in the Philippines, any failure to relay this information to William McKinley violates the provision of Article 28 of the Rome Statute that the commander should have been informed of the actions of his inferiors, thus causing guilt to fall upon William McKinley. Also, the act of attempting to censor these reports and stop them from leaving the united States shows that President McKinley was more interested in preventing scandal at home than ceasing the inhumane torture of Filipinos.

The acts of torture committed by the American soldiers during the Philippine-American War were undoubtedly inhumane and unlawful. It was wrong for these men to commit these acts, but it was even more disturbing that William McKinley allowed for this to happen under his rule. The water cure was an act of torture that brought unimaginable pain to a victim. William McKinley along with his administration should be found guilty of the horrendous acts of torture committed during the Philippine-American War.

4. WILLIAM MCKINLEY SHOULD BE FOUND GUILTY OF WILLFUL KILLING BECAUSE HE AUTHORIZED THE USE OF MARTIAL LAW AND ALLOWED FOR SOLDIERS TO KILL FILIPINOS AT THEIR DISCRETION

William McKinley, serving as Commander in chief of the United states military, allowed for his generals to willfully kill Filipinos and took on action in order to stop them, despite knowing that the army men were killing Filipinos regardless of guilt or military involvement. In doing this, McKinley allowed for the willful killing of Filipinos in violation of Article 8(2a)(i) of the Rome Statute.

William McKinley, during the Philippine-American war, issued General Order #100, which instituted Martial law in the Philippines. In giving this command, he allowed for the military to govern the Philippines and do what they saw fit to stop the war effort. This included the slaughter of Filipinos at the discretion of a soldier. According to Circular Order No. 3, issued by General J.M. Bell and preserved in Secretary of War Elihu Root's records, soldiers were encouraged to "use their discretion freely in adopting any and all measures of warfare authorized by this order"(Storey & Codman 1902). Soldiers were also told in this letter that they did not require approval from headquarters to take actions that would contribute to the end of the war effort, including willful killing. Bell himself even stated in a letter written in 1901 that, during an upcoming march "All able bodied men will be killed or captured...these people need a thrashing to teach them some good common sense". In the wake of the issuing of Circular order No. 3 and General order #100, many murderous actions were taken and later written about by soldiers, such as one account which stated that in the case of one regiment from Tennessee, 1,008 Filipinos were killed and their houses burned as the soldiers chose to take no prisoners

Circular order No. 3 was sent via telegram not only to all major generals engaged in active fighting, but also back to Root, who notified President McKinley about the status of the war and advised him about how to proceed. McKinley, now armed with the knowledge of his troops actions, failed to take any measure to stop violence done at the will of his troops in the Philippines. Thus allowing for the willful killing of a total of 220,000 Filipinos to continue throughout the remainder of the war.

The use of martial law and free discretion by American soldiers toward to act of killing members of the Filipino population, and the allowance of the military to do so by William McKinley directly violates Article 8(2a)(i) of the Rome Statute, and shows that McKinley desired the willful killing of the Filipino population by the United States Army.

5. WILLIAM MCKINLEY SHOULD BE FOUND GUILTY OF EXTENSIVE DESTRUCTION AND APPROPRIATION OF PROPERTY, NOT JUSTIFIED BY MILITARY NECESSITY AND CARRIED OUT UNLAWFULLY AND WANTONLY BECAUSE HE DIRECTED TO BURN AND DESTROY THE TRIBAL VILLAGES OF THE FILIPINO PEOPLE.

William McKinley is criminally liable and responsible for the extensive destruction of the Filipino residences within the jurisdiction of the Court. He was commander in chief during the war against the Philippines, making him responsible for the actions of his inferiors. Due to these actions, McKinley is in violation of Article 8 (2a) (iv) of the Rome Statute.

During the Philippine-American War, the U.S. military was significantly stronger than its' opposition. The Philippines' commanders and generals understood that they were not going to be victorious, especially with the current tactics that they were using. General Emilio Aguinaldo realized that his defensive tactics were failing, as his troops were being mercilessly mowed down when engaged in conventional warfare. In order to continue his defensive effort, he was forced to change focus to Guerilla style warfare in order to minimize casualties while diverting the American advances from civilian populations.

After suffering heavier losses, and failing to reach key locations to destroy on marches due to these new tactics, the United States' forces had enough. At this point, the soldiers began to burn villages so as to displace everyone inhabiting the village, and kill them. One soldier's account states how, after finding a deceased soldier's mutilated body, his acting general, General

Loyd Wheaton, ordered him and the rest of his regiment to burn the nearby village and kill everyone in sight. The result of these mass burnings, according to another account, was “a strip of land sixty miles wide from one end of the island to the other, over which a traditional crow could not have flown without provisions”. Despite the undeniable military gains such an act would have, the fact that these actions did not target militants, but rather civilians, including women and children, with the purpose of drawing out villagers so that they could be killed on masse is not an action taken to secure a military advantage, and is simply wanton destruction of property, shelter and life, as well as of land to be used for crops so as to sustain life and allow for human settlement. .

In a letter written by Secretary Root wrote to the President on July 12, he told the president of the actions of General Smith, who instructed his men to use a similar course of action and that he wanted “no prisoners. [He wishes] you to kill and burn; the more you kill and burn, the better you will please [him]” (Storey & Codman 1902). According to this record, President William McKinley was fully knowledgeable of the atrocities going on in the Philippines and did nothing major to stop them. Another account of such actions was published in the Boston *Transcript* on April 14, 1899 by a correspondent. It explains that the practice of burning native towns and villages went on from the beginning of the war, prior to aggravations of the U.S. generals during the guerilla warfare. It wrote about how the Oregon and Minnesota regiments created a motto for all the destruction of property they created while burning a trail which “was eight miles long; and the smoke of burning buildings and rice heaps rose into the heaven the entire distance, and obscured the face of the landscape for many hours. They started at daylight this morning, driving the rebels before them and setting the torch to anything burnable in their course” (Storey & Codman 1902).

The evidence presented vividly proves and shows the horrors that took place in the Philippines during the Philippine-American War. Concluding from the information, the prosecution strongly believes that William McKinley is should be found guilty of extensive destruction and appropriation of property because these actions, by and large, had little to no military significance, and were taken for the purpose of destroying Filipino lives, property, and possessions.

CONCLUSION

William McKinley should be convicted by the International Criminal Court of Three counts of Crimes Against Humanity and two counts of War Crimes, as follows:

1. Article 7(1a): Murder
2. Article 7(1e): Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law
3. Article 7(1f): Torture
4. Article 8 (2a) (i): Willful Killing
5. Article 8 (2a) (iv): Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly

All of these counts will be defended, however, it is important to understand the severity of the United States' military's actions under President William McKinley as commander in chief during the Philippine-American war, and the affect his inactions had upon the wellbeing, lives and properties of the Filipino people.

President William McKinley should be convicted of all charges brought against him because he allowed for: the United States Army to murder over two hundred and twenty thousand total Filipinos, the confinement of Filipino prisoners in concentration camps, where they were starved, were forbidden drink and forced to weather the elements due to inadequate shelter and overcrowding, the torture of Filipinos via waterboarding so as to inflict severe pain and suffering, the willful killing of Filipinos though the declaration of Martial law and allowing for the actions of Circular Order No.3 to proceed without restraint or consideration for Filipino lives and for the allowance of soldiers to burn villages and settlements to the ground in order to kill civilians and to cause circumstances that would inhibit Filipinos from living upon their own land.

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