

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN A. PATTERSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 5:17-CV-00467
)	
DEFENSE POW/MIA ACCOUNTING)	
AGENCY, et al.,)	
)	
Defendants.)	

SECOND DECLARATION OF GREGORY J. KUPSKY

I, Dr. Gregory J. Kupsy, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am currently a historian in the Defense POW/MIA Accounting Agency’s (DPAA) Indo-Pacific Directorate, and have served in that position since January 2017. Among other things, I am responsible for coordinating Directorate manning and case file preparation for Family Update conferences, and I am the lead historian for all research and casework on missing servicemembers from the Philippines. I also conduct archival research in the Washington, D.C. area to support DPAA’s Hawaii-based operations. Additional details about my experience and credentials are set forth in my first declaration, dated March 15, 2019.

2. The statements contained in this declaration are based on my personal knowledge and DPAA records and information made available to me in my official capacity.

3. I have reviewed the documents titled Declaration of John Eakin, dated March 28, 2019 and Supplemental Declaration of John Eakin, dated April 1, 2019. I will address the documents described in Mr. Eakin’s supplemental declaration.

4. The two pages Mr. Eakin attached to his declaration are excerpts from a single file, File 293, “List of Known Dead and Burial Locations with Some Map or Sketch Illustrations of American Military Personnel.” The file is located in Box 185, Entry 1072, Philippine Archive Collection, Record Group 407, National Archives.

5. File 293 is a compilation of several different documents. It is an index of leads created by the Army Graves Registration Service (AGRS) in their recovery effort in the Philippines. It includes maps, along with an index by location and an index by name and rank. Mr. Eakin made use of pages from two distinct documents in the file.

Document 1: Cemetery & Organization Plot Locations

6. The first document is a two page document titled “Cemetery & Organization Plot Locations.” *See* Exhibit 1. This document describes a number of established cemeteries along with other locations where servicemembers were reportedly buried or where recoveries had been made.

7. The second page of this document includes the line “Col. Stuart – 51st Inf. forward of Hacienda position on S. bank River,” and indicates that the location is No. 48 on the Bataan map.

8. The same page also includes the notation “31st Inf. (Am.) Cem. close to Guitol – W. of Balanga – Also 33rd Inf. (P.A.) Maj. Kaplan, Lt. Maynard this vicinity.”

Document 2: Known Officer Dead & Burial Locations

9. The second document is a 20-page document titled “Known Officer Dead & Burial Locations.” *See* Exhibit 2. This document provides an index by rank and name, and includes notes for “Where Killed,-Died,-Last seen – Etc.”

10. The first page of this document includes the line “Colonel Stuart, Loren. Inf.

Killed Abucay Hacienda, - in front of position. (Not Rec'd)".

11. The thirteenth page of this document (page 17 of File 293) includes the line "Maynard, David 0-384762 57th Inf K.I.A. Bataan (Grave 17, Row 1) → Abucay Cem."

Explanation of Documents

12. Mr. Eakin is incorrect in concluding that the reference to COL Stewart in the first document demonstrates that "the location of the grave of Col. Stewart was well known to graves registration personnel." 2d Eakin Declaration ¶ 3. Instead, this entry merely indicates a lead that was being explored.

13. Confirmation that this was merely a lead rather than a certainty is found in the parallel reference in the second document, which specifies that COL Stewart was "Not Rec'd," i.e., not recovered. His loss location was known, but not his burial location, at the time these documents were created.

14. Similarly, Mr. Eakin is incorrect that the reference to 1LT Maynard in the second document confirms that 1LT Maynard was buried "in the Abucay Municipal Cemetery," and that 1LT Nininger could be expected to be found there too. 2d Eakin Declaration ¶ 4.

15. It is known that 1LT Maynard was not in fact buried in "Grave 17, Row 1" at Abucay Cemetery. That grave was identified as Philippine Scout Marciano Ragaza. *See* Exhibit 3.

16. As noted above, the first document identified a different lead for 1LT Maynard—a cemetery close to Guitol. Indeed, 1LT Maynard's IDPF includes correspondence between SGT Abraham and 1LT Maynard's father in December 1949 regarding this lead. *See* Exhibit 4.

17. In summary, these documents merely compile early leads in the recovery process and do not indicate that COL Stewart's or 1LT Maynard's remains were believed to have been

recovered, let alone identified.

* * * * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of April, 2019.

KUPSKY.GREGORY.J
AMES.1394382740
Digitally signed by
KUPSKY.GREGORY.JAMES.1394382740
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=OSD,
cn=KUPSKY.GREGORY.JAMES.1394382740
Date: 2019.04.05 16:44:18 -04'00'

Gregory J. Kupsy, Ph.D.
Defense POW/MIA Accounting Agency

CEMETERY ORGANIZATION & LOCATIONS.

MAP - No.

3

	MAP - No.
BATAN. LIMAY	BATAN 1
" " Q.M. GRAVES REG. About 1 km. W-on Rd. fr. LIMAY CR. S of Amalo R.	" 2
" " Misc. P.S. & P.A. 200 yds. W-on Rd. fr. LIMAY CR. Rocks & cement on top. (5 or 6)	" 3
ALAGAN R. So. bank. E. Jct. Tr. 20 & ALAGAN.	" 4
W-CABCABEN - Vicinity Km. 162 1/2. B.H. No. 2 CEM. After surrender - On Hosp. Grounds. (68)	" 5
" " " " 163. W " " " A QM GRAVES REG. CEM.	" 6
MARIVELLES - Km. 180. A QM GRAVES REG. CEM. (2) - (WEST RD) & (on edge of Barrio)	" 7
ON WEST RD. - End of side Rd. to W. fr. about KM 188 - between TILIM - LUSONG R.	" 8
+ QUINNAUN PT. - N. of River & Tr. Probably some 300 K.I.A. QUINNAUN Pt. attack. (387 JAP)	" 9
" " " " " & CR (Cross trails) - Believed to be Maj. Sam Jones & chauffeur Erickson	" 10
W. of KM 200 - between SILAIM & ANYASIN R. - some 165 K.I.A. 57 th INF. P.S. - also 45 th INF. (P.S.), 1st Bn. 1st P.C., 2d Bn. 2d P.C., 3d Bn. 1st P.C. & 17 th Pur. Squadron K.I.A.	" 11
N. of Tr. to Pt. between BINUANGAN & SILAIM R. - 165 57 th INF. (P.S.) K.I.A. SILAIM R-ANYASIN R. - NOTE - EST. 165 K.I.A. Some probably buried here (No. 11) and (No. 10)	" 12
Near PATSAUAN R. bridge - A Lt. TROGLIA & others.	" 13
50-75 graves end of Rd. leading off W. Rd. at about KM 215.5.	" 14
91 st DIV. CEM. #1, N. of Tr. 4 1/2 mi E. Jct. Tr. 4 & West Rd. - Some 100 of P.A.	" 15
Some Jap. & unknown P.A. - P.S.	" 16
1 st DIV. CEM. S. of Tr. 9 - 1/4 - 1/2 mi SW. Jct. Tr. 9 & 17 - Some 50-75 of P.A.	" 17
On island in TILIS R. 200 yds E Tr. 39 - Some 50 P.A. (96 th Div.)?	" 18
1/4 or close to BAGAC. Am. officer & Fil. soldiers.	" 19
1 st Div. CEM. 1 mi. E. Jct. Old Tr. 5 & New Tr. 5. Some 50-60 P.A.	" 20
45 th INF. CEM. Immediately E. of Jct. OLD Tr. 5 & Tr. 7 between Tr. 7 & 9. Approx. 50. 45 th and possibly some P.A.	" 21
TUOL POCKET. Near Tr. 5 - E of Jct. Tr. 5 & 9. Some 450 Jap. and probably own (200 PA) troops in some vicinity.	" 22
33 rd INF. CEM. E. bank of PARTINGAN R. - W. Tr. 29 & W. of Jct. Tr. 29 - Mt. SAMAT Tr. (9 P.A.)	" 23
43 rd INF. " Immediately E. of Jct. New Tr. 5 & 29 - W. of CATMON R. (Number unknown) (P.S.)	" 24
41 st Div. " 1/2 mi. N. Jct. Tr. 429 & Mt. SAMAT Tr. E. of CATMON & E. of Tr. 429 (Houses) (CRANE 1/4)	" 25
41 st Div. " W. of CATMON R. - E. of Tr. 29 - 1/2 mi. SW. Jct. Tr. 429 & 8. { 4 }	" 26
41 st F.A. " 1/2 SW. Jct. Tr. 429 & 6. { 4 }	"
+ 3d Bn. 45 th P.S. - 262, Co. "B" 57 th P.S. - 40, 5 th Interceptor Cnd. 16, Co. "A" 803 Engrs 35, P.A.A.C. 10, 1st Bn. 1st P.C. 50	

EXHIBIT

1

BATAN

On Tr. 8 - 1/2 - 1 mi. E. of Jct. Tr. 8 & 29. Maj. Wright, Capt. Tooth, 45th INF. & others.

On Tr. 429 1/4 mi. E. of Jct. Tr. 429 & 6

A FLD. HOSP. shelled out. 1/2 mi. W. of Jct. Tr. 2 & 429. No. of Tr. 429 E. slope PILAR R. (Many PA)

	MAP	No.
	BATAN	28
	"	29
	"	30
(200 yds NE Jct. Tr. 4 & 429 - Many killed.)		
- CAPT. DIXON		
Co. Wippenstein, INF. & others - K.I.A. 1 mi. NE Jct. Tr. 4 & 429 - E. PILAR R. & NE Jct. Tr. 2 & 429	"	31
31 ST DIV. CEM. No. of Tr. 2 close (NE 100 yds) Trail Jct. Tr. 2 - SAN VICENTE R. (WOOD)	"	32
51 ST DIV. CEM. No. of Tr. 2 - between San VICENTE R. & BELLOLO R. (About 30 PA) ^{Top of rise - opposite Mango trees.}	"	33
+ A.C. PROV. REGT. 1 1/2 mi. SW ORION - So. of CUT OFF on Tr. between CUT OFF & PANDAN R. (7 AM)	"	34
22 ND INF. CEM.	"	35
1000 yds. S. of PILAR-BAGAC Rd. (KM 138). W. of Tr. 4 - (close to Tr.) - (Some PA. No. Unknown)	"	35
53 RD INF. W. of Jct. Tr. 2 & Cross Tr. to 14 - Between Tr. Jct. & PILAR R.	"	36
31 ST DIV. CEM. S. of Jct. Tr. 2 & ORION CUT OFF about 1/4 - 1/2 mi. (P.A. No. Unknown)	"	37
Capt. Jack Spigler - Sgt. Lee - possibly others. Rico shed - N-Orion by small bridge.	"	38
Small plot E. of Rd. - died on hike - KM 136 - No. unknown.	"	39
S. edge PILAR-BAGAC RD. - KM 133 - Some AC Prov. Reg't. (AM)	"	40
Capt. E.M. Masterson ^{AM} & others this vicinity. Close KM 136, last house E. side of Rd.	"	41
BALANGA P.O. bk compound burial plot. Near River bend. See also BALANGA SKETCH	"	42
32 ND INF. (P.A.) CEM.	"	43
31 ST INF. (AM) CEM. close to GUITOL. W. of BALANGA. -- ALSO 33 RD INF. (P.A.) This vicinity. ^{MAJ. KAPLAN. LT. MAYNARD.}	"	44
41 ST INF. (RA) CEM. Some 690 Officers & men K.I.A. ABUCAY Battle.	"	45
57 TH INF. (P.S)	"	46
TRAINING CENTER HOSPITAL burial ground. Right in ABUCAY. Some 31 ST INF. (AM)	"	47
Co. L. STUART - 51 ST INF. forward of Hacienda position on S. bank RIVER.	"	48
Capt. Hunt, Lt. Stock, Lt. ---, K.I.A. - Knoll N. of RIVER - Bodies NOT rec'd.	"	49
	"	50
Two TANK GROUP Lts. Killed by shell fire fr Cotacider. E. side of Rd. KM 160.	"	51
At Little Baguio. B.H. #1. A QM Gr. Reg. Cem.	"	52

+ Known - Pvt. FERNALD, BANGOR, ME. & others.

DECLASSIFIED

Authority NND 883 078

KNOWN OFFICER DEAD & BURIAL LOCATIONS.

MAP or 5
Sketch Ref.

RANK	NAME	BR SIN.	WHERE KILLED - DIED - Last seen - Etc.	BURIED	MAP or Sketch Ref.
Brig. Gen.	McBride, Allen Clay	0-2461	Died in P.O.W. Camp, ^(Gr. No. 5) Shirakawa, Taiwan.	Shirakawa, Taiwan	
" "	Fort, Guy O.	(ISC)	Mis. Manila • Last seen Manila •		
Colonel	Barry, Edwin F.	O.D. 0-9717	Died P.O.W. Camp, Tarlac, P.I.	Tarlac. P.I.	
	Bonnet, Donald V.N.	INF. 0-8476	" " " O'Donnell, P.I. ^(Gr. No. 1)	O'Donnell O'Donnell	
	Brezina, Frank, (Ret'd) AMC.		" " " Shirakawa, Taiwan.	Shirakawa, Taiwan	
	Bunker, Paul D.	CAC.	" " " Karenko, "	Katenko "	
	Hoskins, JOHN W. O.	FA	Mis-action S. Bagac - Last seen W. Rd. KM 145. Rpt'd capt.	Bat	
	Hirsch, Ralph	FA. (ISC)	Died Batan hike, • Last seen O'Donnell	O'Donnell Bat March	
	Irwin, John W.	3 rd INF. (ISC)	Died Batan hike, - Lyac Jct. • Burial probably vicinity Lyac.	Bat. P.I.	
	Lloyd, Frank	INF	Missing after sur. Batan.		
	McConnell, Alva	AMC (ISC)	Died Batan hike • reported last seen	Bat. March	
	Merrill, Giles	CAV (GS)	Mis. after Batan surrender. Last seen Red Cr. Hosp. Gunong		
	McCullough, Sam. M.	CAC	Died Bilibid Hosp. Manila •	Old Bilibid. Man.	
	Parker, Arthur W.	AMC 0-8847	Killed - bombg Corregidor •	Corregidor. Cor.	
	Seawright, Hamilton.	FA.	Last seen KP100 - March fr. Batan.	Bat. March	
	Stuart, Loren.	INF.	Killed Abucay Hacienda, - in front of position. ^(Not Read)	Bat	
	Wappenstein, W ^m . A	INF.	Killed 1 mi. NE Jct. Tr. 4 ⁽²³⁾ 429 - E bank Pilar R.	Bat	

EXHIBIT

2

RANK
1st LT.

NAME

S.No. BR

Killed-Died-Last Seen Etc

Buried Map.

RANK	NAME	S.No. BR	Killed-Died-Last Seen Etc	Buried Map.
	Keizer, (Kysor-Last name)	MC	K.I.A. Corregidor (FIRST PERSON KILLED CORREGIDOR)	Corr
	Kirk, David	91ST INF	L-Seen Rodman	
	Levergood, George	60TH CAC	K.I.A. Corregidor	Cor Cor
	Lawrie-Smith	British Army. (Horse MANILA)		CEBU CEBU
	Mayhews, Nathaniel	31ST INF	K.I.A. Body to Balanga & BH*2	BH*2 BAT
	Maynard, David 0-384762	57TH INF	K.I.A. Batan. (Grave 17, Row 1)	ABUCAY CEM BAT
	Miller, Robert E. 0-890093	INF	Died P.O.W. Camp Cabanatuan	Cab Cab
	Merrill, Donald W. 0-315774	CAC	Died P.O.W. Camp Cabanatuan	Cab Cab
	McIntosh, Joe		Died P.O.W. Camp Cabanatuan	Cab Cab
	Montiath, Charles F. 0-350587	CAC	" " " "	" "
	Mark, H. D.	26TH CAV	K.I.A. vicinity Dinalonan (vicinity Bin. Lazon	BAT.
	McClure,	INF	K.I.A. Guital Trail-before Banana Plantation. Close-Mango tree.	BAT.
	Meahan, Michael "Micky" Br. in law HERB. HARRIES. MP BATAN -		L-Seen Marivelles, time of sur.	
	Moore, Jack T.	INF	No record since O'Don.	
	Navin, J. (NOT 1st LT. BUT CAPT) 0-234850	85TH INF	(DISC) K.I.A. between Iligan & 1 km S of Momungan, Mind.	
	(Navin or Navan?)		N-Edge of village.	Mom. Mind.
	Oppenheim, James R.		Died P.O.W. Camp Cabanatuan	Cab Cab
	Peterson,	(DISC) OMC	L-Seen O'Donnell	O'Don
	Pace, Herbert	60TH CAC	K.I.A. Corregidor	Cor. Cor
	Phillips, Hersel E. 0-890011	CE	" " "	" "
	Pleshko, William		Died P.O.W. Camp Cabanatuan	Cab Cab
	Pruitt, Daniel C. 0-890271		" " " O'Donnell	O'Don

35186

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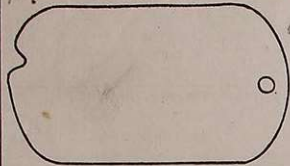
WD QMC FORM 1042
(Rev. 1 Apr. 1945)
(Supersedes GRS Form 1)

REPORT OF INTERMENT
(AR 30-1810 and AR 30-1815)

DATE OF REPORT

11 Feb. 46

Impress Identification Tag If Possible.
DO NOT TYPE



Section 1.—IDENTIFICATION.

NAME (Last, first, middle initial)

8293 ~~BAZAZ~~ KAGAZA, Marciano

SERIAL No.

R-6614250

GRADE

ORGANIZATION

Philippine scout

BRANCH OF SERVICE

Army

RACE

RELIGION

IF OTHER THAN U. S. DEAD, GIVE NAME OF COUNTRY

PLACE OF DEATH

CAUSE OF DEATH

DATE OF DEATH

EMERGENCY ADDRESSEE (Name, relationship, and address)

IDENTIFICATION TAGS FOUND ON BODY
(1, 2, or none)

yes (1) Round

IF NO TAGS FOUND ON BODY, DESCRIBE MEANS OF IDENTIFICATION (If unidentified, fill in section 3 on reverse)

WERE SUBSTITUTE TAGS PROVIDED?(Yes or no)

yes (1)

LIST PERSONAL EFFECTS FOUND ON BODY AND DISPOSITION OF SAME

None

Section 2.—BURIAL. If other than in established cemetery, furnish sketch and map coordinates on reverse.

NAME, NUMBER, COORDINATES, AND LOCATION OF CEMETERY

USAF Cemetery Manila #2, Iuzon, P. I.

DATE OF BURIAL	HOUR	BURIED IN (Shroud, blanket, or name of other)	TYPE OF GRAVE MARKER	PLOT No.	ROW No.	GRAVE No.
17 Jan. 46	1000	Shelter Half	Cross	2	22	2778

WAS THIS A REBURIAL? (Yes or no)	IF A REBURIAL, INDICATE NAME, NUMBER, COORDINATES OF PREVIOUS CEMETERY, AND LOCATION OF GRAVE	GRAVE No.
Yes	Abucay Cemetery, 27.6-80.5 Map Ref. Abucay P.I. Ba-taan prov. N 1430 E 120 30/10 scale 1 x 50,000	17

TYPE OF RELIGIOUS CEREMONY	PERSON CONDUCTING BURIAL RITES	IF IDENTIFICATION TAGS NOT USED, DESCRIBE IDENTIFICATION DATA AND CONTAINERS BURIED WITH BODY

IDENTIFICATION TAG BURIED WITH BODY (Yes or no)	IDENTIFICATION TAG ATTACHED TO MARKER (Yes or no)	BODY BURIED ON DECEASED LEFT, NAME (Last, first, middle initial)	RANK	SERIAL No.	ORGANIZATION	GRAVE No.
Yes	Yes	CAOIT, Magno		10302195	phil. scout	2777
		CRUZ, Cenon		10300723	phil. scout	2779

SIGNATURE OF PERSON PREPARING REPORT	SIGNATURE OF GRS OFFICER VERIFYING REPORT
R. C. BARRETT, S/Sgt. GRS.	E. M. MOORE, 1st Lt. QMC.

DISTRIBUTION OF REPORT: Signed original for U. S. and allied dead, signed original and one copy for enemy dead, to the Quartermaster General through Headquarters GRS Officer. Copies for retention in theater as prescribed by theater commander.

RESTRICTED

16-43997-1

EXHIBIT

3

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Section **UNIDENTIFIED REMAINS.**

INSTRUCTIONS:

(a) Great care will be taken to record the most minute clues for the future identity of unidentified remains. Fill in anatomical characteristics below, and any other clues under "Other," such as shoe size, social security number; position of body found in airplanes, vehicles, and tanks; and serial numbers of airplanes, vehicles, and tanks.
 (b) A fingerprint, or prints, are the most valuable of all clues. Imprint all fingers and thumbs in the chart at left, or as many as possible. If no fingerprint or prints can be secured, the condition of each and every tooth will be indicated on the tooth chart in accordance with diagram below. Tooth chart will not be accomplished if one or more fingerprints are secured.

0000 1172

17A

HEIGHT	WEIGHT	COLOR OF EYES	COLOR OF HAIR	BIRTHMARKS, SCARS, OR TATTOOS
--------	--------	---------------	---------------	-------------------------------

WEAPON AND SERIAL No.	LAUNDRY MARKS	WHERE BODY WAS BURIED OR FOUND
-----------------------	---------------	--------------------------------

OTHER IDENTIFICATION CLUES

FILLINGS



CAVITIES



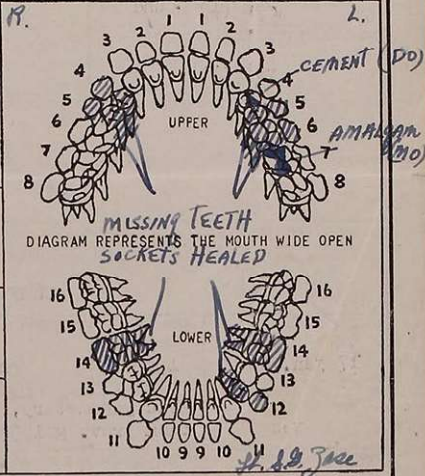
MISSING TEETH



CROWNED, TEETH

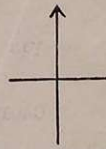


BRIDGE WORK



FURNISH SKETCH AND MAP REFERENCE AND COORDINATES FOR BURIAL IN OTHER THAN ESTABLISHED CEMETERY

Decclusion Normal J.B.J.



REMARKS:

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EXHIBIT

4

COPY

I6 Dec. 1949

Dear Mr Maynard:

Sorry I am a little late in answering your letters, I try to write and answer as many as I can in a day.

I am glad Dad McManis told you to write to me, probably Dad told you that I was the only one who remained in the Philippines, I stayed two extra years and returned home in 1947.

I established my headquarters in Balanga, Bataan, this spot is in the center of Bataan and from here I could work at any spot in Bataan, I worked according to leads, investigation revealed that there were 6 Officers buried at Guitol, Balanga, Guitol is not far from the Abucay battle line, I disinterred the 6 and did not find any tags, the only thing I can do is take the remains to the Cemetery in Manila as unknowns, the bodies will remain as unknowns till the properly identify the deceased, I know Washington is doing all they can and probably later will secure the real identity, as I recall I sent in a lead on the 6 bodies as that of Lt David Manard, Maj Kaplan, Major Cleary, etc.

As for the burials at Abucay cemetery, I identified 9 as scouts I Americal Capt. whose name is Captain McCurdy and the other American as probable that of Lt Compton, as for Lt Wilson, he was disinterred at Hermosa Bataan.

Hoping this information helps you out a lot, anything else I can help, just write to me and let me know.

Yours Truly

Abie Abraham
M/SGT., 2322nd ASU

U.S. Army & U.S. Air Force Recruiting Station
COURT HOUSE
BUTLER PA.