

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.)	

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.

2. I have been employed by DPAA or one of its predecessor organizations, the Joint POW/MIA Accounting Command (JPAC), since May 2011. I served as a historian for JPAC from May 2011 to July 2014, and was the research lead for the Philippines, making numerous trips to the Philippines to coordinate with government officials, conduct research and witness interviews, and survey possible burial and aircraft crash sites, along with investigations and trips to other countries. From July 2014 to October 2015, I served as the World War II Division

Supervisor (spanning the transition from JPAC to DPAA), overseeing research, interviews, field investigations, and reporting on the search for over 73,000 missing World War II servicemembers worldwide. From October 2015 to December 2016, I served as Case Support Manager for the Asia-Pacific Directorate, overseeing a disinterment program aimed at identifying unknowns from the Pacific and China-Burma-India Theaters of World War II, along with setting and enforcing research standards, processes, and formats for the multidisciplinary teams.

3. I received a Ph.D in Modern U.S. History from The Ohio State University in 2010. In February 2010, I was selected for a research fellowship by the Oak Ridge Institute for Science and Education (ORISE), and served with JPAC in Hawaii from April 2010 to May 2011, writing an in-depth study of the Philippines and proposing strategies for recovering remains of missing U.S. service members from World War II from that country. My awards, membership in professional organizations for historians, published articles, and presentations to professional audiences are reflected in my curriculum vitae. See Exhibit 1.

4. 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.

5. I have reviewed the documents titled Expert Opinion Report of John J. Eakin (Eakin Report), dated September 14, 2018 and Expert Opinion Report of CDR Renee R. Richardson (USN/RET), dated July 18, 2018. I will address a number of their statements regarding historical analysis.

Disinterment Research

6. DPAA's standard procedure for disinterment research is to compile a "short list" of candidates for each unknown set of remains. Historians compile a candidate list, conducting

historical analysis to identify possible candidates based on the location from which the remains were recovered, known circumstances of the loss, and information about how the remains were processed over the years.

7. DPAA forensic anthropologists and odontologists then go through the candidate list, comparing the personnel files and medical records of the candidates—if available—to the unknown or X-file. Scientific and medical records, such as dental records, are evidence that may rule out certain candidates.

8. The “short list” of final candidates based on historical analysis and scientific evidence is used by DPAA in making its recommendation for or against a specific disinterment, and it is also used to guide the Service Casualty Offices in requesting DNA family reference samples to support a disinterment.

9. Servicemembers who are mentioned in an X-file or other associated historical records are weighed seriously as potential candidates and are often prominent on the “short list.” But mere mention in the records is insufficient to propose disinterment because all candidates need to be considered. After all, postwar investigators made those initial associations but ruled them out, often for valid reasons. Many disinterments have occurred in which an unknown was ultimately identified as someone other than the individual(s) mentioned in the file. It is not reasonable to assume that an initial association was made on the basis of reliable evidence that was never recorded. Indeed, during AGRS’s recovery efforts after World War II, they often had less information at the time they were collecting remains and witness statements than could be later gathered and assessed when proposed identifications were being reviewed.

10. DPAA’s analytic process does not rely on one-to-one comparison of just one servicemember to one set of unidentified remains, nor does it contemplate disinterment to

provide negative proof that a specific set of remains is not a specific servicemember. Either approach would be inefficient and counterproductive. By definition, research centered on one individual excludes evidence pointing to other, possibly better, candidates. Because DPAA aims to account for as many servicemembers as possible, it is inefficient to pull remains from the ground before appropriate preparations have put DPAA in the best possible position to identify those remains. To serve the agency's mission to provide the fullest possible accounting for unidentified remains, DPAA only recommends disinterment when it has a reliable list of candidates based on historical and scientific evidence and when DoD has received sufficient DNA family reference samples or other medical means of identification to support the identification effort once disinterment occurs. A "negative proof" disinterment is even more counterproductive, in that it would likely neither resolve the missing individual nor aid in the identification of the unknown.

11. Historical research is a valuable and reliable piece of the identification process. While the relevant historical records contain various types of errors, appropriate historical research can limit the effect of such errors. Historians can weigh assumptions in the records against the balance of other available evidence, and set aside those determined to be invalid. An excellent example is a historical record's association of a specific servicemember with an unknown. Other evidence can sometimes prove the assumption underlying the association to be wrong; or, at the very least, suggest other candidates for comparison to the unknown *in addition to* the named individual, *in case* the assumption was wrong.

12. Admittedly, historical research cannot completely eliminate the possibility of errors in the records. This is part of the reason why DPAA requires a list of possible candidates, and not just the likeliest candidate, in a disinterment case. A broader list, with DNA samples

collected, prepares DPAA to make an identification if the evidence supporting the likeliest candidate turns out to be inaccurate.

13. Ms. Richardson's description of her own methodology—a "chronological approach" that focuses on understanding the timeline of relevant actions in the file—is merely the first step in a long, complex, multidisciplinary process. Getting the timeline straight sets the stage for analysis and weighing of evidence. It does not produce conclusions. Nor is it adequate to abandon historical evidence because of contradictions. Instead, the purpose of historical analysis is to gain as much knowledge as possible by analyzing and weighing the basis for the conflicting statements.

Cabanatuan Common Graves

14. At Cabanatuan POW Camp #1, fellow POWs buried their comrades who died during roughly the same 24 hour period in a common grave. Efforts to document these burials were initially spotty and hindered by the Imperial Japanese.

15. After the war, the Army Graves Registration Service (AGRS) began disinterring remains from the common graves and reintering those that were not immediately identified at U.S. Armed Forces Manila #2 Cemetery. In the fall of 1947 the remains were disinterred again and moved to an AGRS Mausoleum for examination. Many remains deteriorated from remaining in wet ground for several years and from being repeatedly handled. A review conducted in 1951 concluded that the various well-intentioned identification efforts had left the remains "jumbled beyond belief." In January 1952, DoD concluded that the unknown remains were unidentifiable and should be buried at Manila American Cemetery.

16. DPAA has an ongoing project to account for the unidentified service members who died at Camp Cabanatuan. It began around 2004 with historical research and assessment of

all available documentation. A sustained disinterment effort began in 2015. The project seeks to disinter at one time all unidentified remains associated with one Cabanatuan grave, with allowances for demonstrated discrepancies in grave and date associations. Analyzing each grave in turn allows DPAA to ensure that historical and scientific evidence and DNA family reference sample collection efforts are adequate to support identification after disinterment. DPAA recommends disinterment only when this evidence has been compiled and sufficient DNA family reference samples or other medical means of identification have been received.

17. DPAA's current identification effort must contend with numerous factors inhibiting identification. Among these are: (1) the primary record regarding the original burials, Captain Robert Conn's "Death Report, Cabanatuan," is incomplete and potentially inaccurate; (2) the initial AGRS disinterments may not have precisely conformed to the graves as they were originally dug; (3) early identifications by dog tags or other personal items (whether at the time of initial burial or at the initial disinterment) may have been inaccurate (e.g., because the service member was holding the item for someone else); (4) remains from a common grave were likely to be inherently commingled when initially recovered; (5) repeated handling before final burial in 1952 likely led to additional commingling, and may have caused commingling of remains drawn from different common graves; (6) records indicate that, by 1952, remains had significantly deteriorated due to burial conditions and repeated handling. See Exhibit 2, Heather Harris & Lisa Beckinbaugh, Historical Report, U.S. Casualties and Burials at Cabanatuan POW Camp #1 (May 2017).

18. As a result of any number of these factors, during this project DPAA has found individuals in common graves other than those suggested by the records, and has found a substantial amount of commingling to have occurred, including mixing of portions of previously

identified individuals with the remains of those still unidentified. For all of these reasons, DPAA does not consider association of a servicemember with a particular Cabanatuan common grave or unknown (whether by Robert Conn's Death Report or otherwise) to provide any certainty about where the servicemember's remains are currently located.

19. In its systematic approach to this project, DPAA is currently processing remains from 17 Cabanatuan common graves. In November 2018, remains associated with Cabanatuan Common Graves 704 and 822, among others, were disinterred after DPAA's recommendations were approved. Because the threshold for family reference samples was recently met for Cabanatuan Common Grave 407, DPAA is currently in the process of finalizing its recommendation for disinterment of remains associated with that common grave.

Association Between 1LT Nininger and X-1130

20. *Abucay Recovery Efforts.* I am conducting DPAA's comprehensive study of remains recovered from the Abucay area, the temporary cemeteries on Bataan, and the missing individuals who may be associated. This requires the ordering and examination of thousands of personnel files to reconstruct Bataan cemetery maps. The goal is to determine burial patterns in those cemeteries to support the drafting of short lists for recovered unknowns. In my review of the recovery effort from the Abucay area, I have reached several conclusions from a large collection of Individual Deceased Personnel Files (IDPFs), X-Files, AGRS records, maps, and documents from the Philippine Archive Collection at the National Archives in College Park, Maryland.

- a. In December 1945 and January 1946, AGRS personnel disinterred at least 13 remains from "Soldiers Row" of the Abucay village cemetery. Shortly before that, Sergeant Abie Abraham had taken the statement of a gravedigger who said that he helped bury five Americans at that cemetery in January 1942. See Exhibit 3. One of these sets of remains, labelled X-1130, came from Grave No. 9 in this row, and was tentatively associated with 1LT Nininger as

discussed below.

- b. Separately, in May and June 1946, AGRS personnel disinterred 14 remains from an “Army Personnel Row” outside the south wall of the Abucay churchyard. In May 1946, Sergeant Abraham had taken the statement of someone who stated that Philippine Scouts and two American soldiers were buried in this row outside the church in January 1942. See Exhibit 4.
- c. While these two locations, which are about one half mile apart, were later confused with each other in the effort to identify 1LT Nininger, the locations were consistently distinguished from each other by name and map coordinates in the disinterment documentation.
- d. In addition to these 27 disinterments in the town of Abucay, of whom 8 remain unidentified, AGRS disinterred 43 additional sets of remains from the Abucay town area that have not been identified. One set of remains was disinterred from the Abucay churchyard itself—on February 3, 1948, AGRS disinterred remains that were identified as 1LT Ira Cheaney on the basis of testimony by COL George Clarke which is now considered inaccurate. See Exhibit 5.
- e. Another 21 unknowns came from the Abucay Hacienda area, along the battle line that extended approximately 3-5 miles west of the town area. One of these sets of remains, labelled X-3629, was associated with COL Stewart, as discussed below.
- f. There are a total of 41 missing individuals believed lost in the fighting around Abucay from 9-12 January 1942, when 1LT Nininger was killed. In addition, one missing servicemember died during an appendectomy in December 1941 and was reported buried in the Abucay churchyard, and another missing servicemember’s IDPF reports that he was buried in the churchyard on January 23, 1942. Any attempt to identify remains recovered from this area should consider these additional servicemembers.
- g. Some members of the 57th Infantry Regiment killed in January 1942 were buried at U.S. Army cemeteries in Limay, Cabcaban, Mariveles #3, and Guitol. It is thus possible that 1LT Nininger’s remains were transferred from Abucay along with these individuals.

21. *Basis for Association to X-1130 Manila #2.* On February 20, 1944, COL George Clarke, former 57th Infantry commander, wrote a letter to 1LT Nininger’s father at the request of the U.S. Army Adjutant General to answer questions the father had posed. [DPAA2243-46, p. 139 of IDPF]. A copy of the letter was retained by the Adjutant General. [P. 134 and 169 of

IDPF] COL Clarke claimed that 1LT Nininger was buried “in grave No. 9 behind the South wall of the Abucay church.” This statement appears to be the sole or primary basis for the association between X-1130 and 1LT Nininger. I further note:

- a. It is unclear precisely when the remains designated X-1130 were first associated with 1LT Nininger. It appears, due to differences in color and typeface, that both the file copy of the original Report of Disinterment (January 8, 1946) and the original Report of Internment (February 13, 1946) were subsequently typed over at some point after their creation to include information about 1LT Nininger. *See* Exhibits 6, 7.
- b. Regardless of when this occurred, the reference to an “attached letter” in that subsequent typeface suggests that the basis for association was COL Clarke’s February 1944 letter. *See* Exhibit 8. At any rate, the association was made in early 1946 because it was referenced in correspondence between an active servicemember’s mother and 1LT Nininger’s father between February and June 1946. *See* Exhibits 9, 10.
- c. Nothing in the records indicates that there was any reason for the association other than COL Clarke’s reference to a “Grave No. 9.” While multiple witnesses agree that he was buried in or around the church yard, the specificity of Grave 9 comes only from COL Clarke, who had departed Bataan before the burials occurred and has been shown to have given false information to other families. For instance, COL Clarke told another family that their loved one was buried in Grave 6, but Grave 6 at both the “Army Personnel Row” and the “Soldiers’ Row” were identified as someone else.

22. *Efforts to Identify X-1130.* Beginning in December 1948, AGRS repeatedly sought identification of X-1130 as 1LT Nininger, relying primarily on COL Clarke’s letter. The Office of the Quartermaster General (OQMG), which had final say regarding identifications, was not satisfied and ultimately disapproved the proposed identification due to witness testimony suggesting that 1LT Nininger had been buried in the churchyard rather than outside the wall or in the village cemetery and the significant height discrepancy. In September 1950, OQMG approved X-1130 as unidentifiable and 1LT Nininger as unrecoverable. More specifically:

- a. On December 8, 1948, AGRS first recommended identification of X-1130 as 1LT Nininger, relying primarily on the internment reports and Clarke’s letter. *See* Exhibit 11. The AGRS Board of Review approved the recommendation and it was forwarded to OQMG.

- b. In February 1949, OQMG suspended board proceedings for responses to questions regarding the burial location and height discrepancy. See Exhibit 12.
- c. On April 26, 1949, AGRS renewed its recommendation with some additional information. See Exhibit 13. The AGRS Board of Review approved the recommendation and it was forwarded to OQMG.
- d. On September 28, 1949, OQMG suspended board proceedings while it conducted its own effort to obtain additional information, contacting COL Clarke and several other potential eyewitnesses. See Exhibit 14. On November 28, 1949, OQMG disapproved the recommendation, forwarding new information from its correspondence and instructing AGRS to reinvestigate the facts of the case. See Exhibit 15.
- e. On March 7, 1950, AGRS requested reconsideration, claiming that “the agreement in grave number is sufficient basis to establish the association.” See Exhibit 16. On March 24, 1950, OQMG responded, asking for a further search and recovery operation in the churchyard itself. See Exhibit 17.
- f. After AGRS forwarded the results of the excavation in June 1950, which located only remains that appeared to be Filipino, on August 30, 1950, OQMG finally disapproved the recommendation for identification of X-1130 as 1LT Nininger. See Exhibit 18, 19.
- g. Thereafter, the AGRS Board of Review recommended that X-1130 be classified as unidentifiable and 1LT Nininger be determined nonrecoverable, See Exhibits 20, 21. And OQMG approved those recommendations on September 23 and 26, 1950. See Exhibits 22, 23; *see also* Exhibit 24 (Oct. 5, 1950 Resume of Record).

23. After concluding that 1LT Nininger could not be recovered, OQMG apparently tasked Captain Joseph Vogl with following up with COL Clarke and others to see if any additional leads could be developed. He recorded his conversations between October 16 and 31, 1950 in a nine page document captioned “SUBJECT: Nininger, Alexander R. 2/Lt O-23761.” See Exhibit 25. On October 16, 1950, Capt. Vogl contacted COL Clarke to inquire about the location of 1LT Nininger’s burial. On October 23, 1950, in a conversation with Lt. COL Franklin Anders, he first learned that COL Clarke might not be a reliable witness. And on October 24, 1950, in a conversation with Major John Olson, he first learned that 1LT Cheaney

could not have been recovered from the Abucay churchyard because he died after the area was lost to the Japanese. His subsequent conversations confirmed the unreliability of COL Clarke and that 1LT Cheaney could not have been buried in Abucay. There is no indication in the record that anyone at AGRS or OQMG was concerned about the identification of 1LT Cheaney before October 23, 1950. Therefore, Mr. Eakin's theory that concern about 1LT Cheaney's misidentification caused OQMG to disapprove identification of X-1130 as 1LT Nininger—which occurred between February 1949 and September 1950—lacks any support in the record.

24. *Misidentification of 1LT Cheaney.* The Identification Branch of OQMG's Memorial Division concluded on the basis of Captain Vogl's investigation that the remains buried in 1948 at West Point could not be 1LT Cheaney. See Exhibit 26. It recommended comparison of another set of unknown remains to 1LT Cheaney's records and disinterment of the remains at West Point for comparison to 1LT Nininger and a fellow servicemember if 1LT Cheaney could be identified elsewhere. But the other remains could not be matched to 1LT Cheaney. Following that analysis, OQMG ultimately approved the finding that 1LT Nininger was unrecoverable on June 28, 1951. See Exhibit 27. On February 4, 2019, 1LT Cheaney's first cousin formally requested disinterment of the remains at West Point on the basis of the misidentification. On March 8, 2019, disinterment of the remains identified as 1LT Cheaney was approved. Once disinterred, the remains will be transferred to DPAA for identification. See Exhibit 28.

25. *Prospects for Resolving 1LT Nininger and X-1130.* DPAA will compare the remains previously identified as 1LT Cheaney to 1LT Nininger and other servicemembers lost in the Abucay area. DPAA's comprehensive study of the losses around Abucay is ongoing. Because there is evidence that 57th Infantry officers killed on the same date as 1LT Nininger

were reburied in other temporary cemeteries, DPAA considers this the best avenue for finding the remains of 1LT Nininger and his fellow officers. The comprehensive cemetery study also includes the reconstruction of the “Soldiers’ Row” of the Abucay village cemetery, from which X-1130 was recovered. Once complete, a plot map of that burial area will allow the creation of short lists to support the case for disinterment of associated unknowns, including X-1130.

Association Between COL Stewart and X-3629

26. *Basis for Association Between COL Stewart and X-3629 Manila #2.* The remains designated X-3629 Manila #2 were disinterred from an isolated grave near Abucay Hacienda in January 1947. The sole basis for associating X-3629 with COL Stewart is a December 1946 statement by Ruben Caragay, resident of Abucay. He told an Army team that he saw members of the Philippine Scouts’ 57th Infantry Regiment “carrying [a] deceased American” and “they said the deceased is an American Colonel.” See Exhibit 29. The disinterment report states that the remains are those of “STUART, Colonel 57th Inf.” Master Sergeant Abie Abraham, who headed recovery efforts in the area, explained in 1981 that he drew this tentative association based on the fact that COL Stewart (misspelled in 1946) was the only Colonel missing near Abucay. See Exhibit 30.

27. While COL Stewart’s name is misspelled where the association appears in the file for X-3629, nothing in the record suggests that AGRS or OQMG were unaware of the association with COL Stewart. No other Colonels are missing from the area, and there is no serviceman named “Stuart” missing from the area. COL Stewart was determined to be non-recoverable in April 1950.

28. *Prospects for resolving COL Stewart.* DPAA’s comprehensive study of remains recovered from the Abucay area, the temporary cemeteries on Bataan, and the missing

individuals who may be associated may lead to unknowns for which COL Stewart is a reasonable candidate. Incomplete recordkeeping makes it difficult to reconstruct exact times and places of individual losses along the battle line near Abucay Hacienda between January 9 and 25 1942. Based on unit and the timeframe of the larger battle, between 100 and 350 Americans and Philippine Scouts may have died along this battle line, along with an unknown number of Philippine Army enlisted men. Few of these servicemembers have been identified, leaving between 90 and 320 unresolved Americans and Philippine Scouts are associated with this battle.

29. *Prospects for disinterring X-3629.* In response to a family disinterment request, DPAA carefully examined the potential connection between X-3629 and COL Stewart. DPAA created a short list of 21 officers who died in the area for comparison to X-3629, on the possibility that Mr. Caragay was correct in recalling that a U.S. officer was buried there but wrong about the officer's rank. COL Stewart was included as a candidate on the basis of historical analysis. However, analysis of personnel and medical records by DPAA's forensic anthropologist and odontologist led to exclusion of nineteen individuals, including 1LT Nininger and COL Stewart, leaving two other candidates. DPAA is pursuing DNA reference samples for the remaining candidates on the short list to support a recommendation for the disinterment of X-3629.

Association Between Brig Gen Fort and X-618

30. *Potential Relationship to X-618 Leyte #1.* In response to a family disinterment request, DPAA carefully examined the potential connection between X-618 and Brigadier General Guy Fort (Brig Gen Fort). In August 2018, DPAA recommended against disinterment because it was unlikely that an identification could be made as a result of disinterment. See Exhibits 31, 32. On November 28, 2018, the Assistant Secretary for Manpower and Reserve

Affairs concurred and denied the request. *See* Exhibit 33.

31. The remains designated X-618 Leyte #1 were provided to AGRS on July 14, 1947, along with the statement that they were disinterred from the grounds of a school near Cagayan on the island of Mindanao. The association of X-618 to Brig Gen Fort rests solely on the secondhand testimony of Ignacio Cruz, governor of the province where the remains were recovered. *See* Exhibit 34.

- a. While a POW, Governor Cruz heard that the Japanese took Brig Gen Fort to the town of Dansalan in September, 1942, but subsequently flew him to Cagayan (the recovery area of X-618).
- b. Different witnesses told Governor Cruz of the execution and/or burial of “an American officer,” “an American,” “an important officer,” or “a big American” in the vicinity of the X-618 recovery site.
- c. Only one individual, “a Filipino soldier whose name [he] cannot now remember,” named the victim as Brig Gen Fort.
- d. As a result, Governor Cruz referred to X-618 as “the *supposed* remains of Gen. Guy O. Fort” in his written statement (emphasis added).

32. Multiple records agree in part with Governor Cruz—the Japanese brought Brig Gen Fort to Dansalan around October 1942 to order the surrender of guerrillas in the area. But records do not support the idea that he was subsequently flown to Cagayan. Instead, when Brig Gen Fort refused, he was executed. Beginning in June 1948—nearly a year after the recovery of X-618—U.S. Army investigators conducted interrogations for the war crimes trial of Lt Col Yoshinari Tanaka, commander of the Japanese garrison in Dansalan. Tanaka and three other Japanese officers all testified that they executed Brig Gen Fort in the vicinity of Dansalan, approximately 45 miles from Cagayan. Not surprisingly, the Japanese officers gave conflicting testimony about who ordered the execution, but were consistent in locating the execution in Dansalan. It is unlikely that they would falsely claim responsibility for his execution while being investigated for war crimes. Guerrilla intelligence reports and Filipino civilians also pointed to

Dansalan as the site of the execution. As a matter of historical analysis, it is difficult to understand Mr. Eakin's decision to credit Governor Cruz's speculation over the Japanese officials' admissions against their own interests, the firsthand account of a Filipino witness, and wartime guerrilla intelligence.

33. While the July 1947 recovery team had associated X-618 with Brig Gen Fort based on Governor Cruz's testimony, after the Tanaka investigation, AGRS concluded in June 1949 that Brig Gen Fort "was executed by the Japanese on 11 November 1942 in or around the vicinity of the City of Dansalan." See Exhibit 35. In its final assessment of X-618 in September 1949, OQMG noted further that teeth present in X-618 were recorded as extractions on Brig Gen Fort's dental chart. See Exhibit 36.

34. DPAA's reexamination of the association between X-618 and Brig Gen Fort reached similar conclusions. In addition to historical evidence that Brig Gen Fort is unlikely to be buried in Cagayan, there are significant differences between the remains designated X-618 and Brig Gen Fort's biological profile. The AGRS forensic anthropologists in 1950 concluded that X-618 appeared to be an individual in his 20s at the time of his death and probably Filipino, while Brig Gen Fort was 63 and Caucasian. The measurements of the femur, fibula, and humerus, reanalyzed using modern methodology, indicate a stature between 5 feet 1.2 inches and 5 feet 6.6 inches, while Brig Gen Fort was 5 feet 8.5 inches tall. And X-618 is recorded as having a tooth present where Brig Gen Fort's records indicated his tooth had been extracted.

35. *Prospects for Resolving Brig Gen Fort.* DPAA has researched three fragmentary unknowns collected on three separate occasions across the Agus River from Camp Keithley, near Dansalan. That camp is the location where a Filipino last saw Brig Gen Fort alive, and the area from which the Japanese officers said they took Brig Gen Fort. DPAA composed a list of

candidates including Brig Gen Fort and three other individuals known to have been taken across the river and executed in July 1942. DPAA is awaiting collection of DNA family reference samples for the other three individuals before submitting a joint disinterment proposal for X-629 Leyte #1, X-633 Leyte #1, and X-3815 Manila #2.

36. *Prospects for Disinterment of X-618 Leyte #1.* X-618 presents several difficulties in building a short list. Prisoners from the Dansalan area, including Brig Gen Fort, moved through Cagayan in July-August 1942 on their way to Malaybalay POW camp, but there is no record of any POW being held there beyond that point, and only Brig Gen Fort was brought back to Dansalan in late October. There is thus a distinct possibility that X-618 is associated with a guerrilla or a civilian, and could be either American or Filipino, in which case records are extremely sparse or nonexistent.

* * * * *

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

Executed this 15th day of March, 2019.

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