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Mark Selden

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Brown, a Marine with twenty one years of service, was charged with the November 2002 rape of a Filipina base worker. He was convicted on July 8th of a lesser charge of molestation and sentenced to one year in jail, suspended for three years, and fined \$1,400.

Japan Focus presents two reports on the case, one by Stars and Stripes, the official US military newspaper for armed forces personnel stationed overseas, and the other by Kyodo News Service. Stars and Stripes provided the most extensive and detailed coverage of the case, the verdict,

and the possibility of appeal by any international newspaper.

Several points in the case stand out. Following the 1995 rape of a twelve year old Okinawan girl by three U.S. enlisted men, giving rise to the largest demonstrations in Okinawan history, the U.S. was forced to agree to change its Status of Forces Agreement (SOFA) with Japan. The change meant that U.S. soldiers charged with crimes on Japanese soil would be turned over to Japanese authorities for prosecution instead of being tried by a US military court or released. The Brown case was the first test of that agreement. Initially, the U.S. refused to surrender Major Brown to Japanese authorities, a subject discussed by the Kyodo report but ignored by Stars and Stripes.

A second element in the case, illustrative of the widening role of the internet, was the sustained public relations campaign waged to secure his release, designed both to make his case publicly available and to pressure the US government to secure his release. See

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A third point worth noting is that the plaintiff sought (unsuccessfully) to withdraw the charges one day after a \$13,500 check was deposited in

her bank account. This fact was emphasized by the presiding Judge and reported in Stars and Stripes but not mentioned by Kyodo. The Brown camp has denied having had anything to do with the deposit, whose origins were apparently not determined by the court.

What is most striking about the coverage in all of these sources, however, is their failure to discuss the issues in terms of the larger problems of six decades of Okinawan subordination to US military rule.

Okinawa was one of the first links in the chain of US Bases that now circles the globe. Chalmers Johnson has estimated that there are now more than one thousand of these bases, including many new ones built since 9/11, with a quarter of a million U.S. military forces and an equal number of dependents inhabiting them. Rape is one important element of the military culture associated with the American empire of bases.

Despite current conflicts involving the U.S. and Okinawa over plans to build a new Marine Air Station at Henoko and other points of tension in the relationship, the case of Major Brown has been basically ignored in the American press.

The first story below is from Stars and Stripes, the second from Kyodo News.

### **Brown convicted of 'attempted indecent act'**

By David Allen

NAHA, Okinawa — Marine Maj. Michael Brown

was found guilty Thursday of attempting an indecent act with an officers club barmaid and destroying her cell phone, but innocent of the more serious charge that he attempted to rape her.

Brown was sentenced to a year in prison but the sentence was suspended for three years. He also was fined about \$1,400. The Marine Corps has not stated whether the 20-year Marine, who spent several months in Japanese custody until bail was granted, might face military sanctions.

His charges stemmed from a November 2002 incident involving Victoria Nakamine. Thursday's verdict brought Brown's 19-month trial to close.

The Marine officer, dressed in a dark blue suit and wearing an American flag tie, stood at attention as he listened to Chief Judge Nobuyuki Yokota read the court's findings. He smiled at his wife, who sat in the spectator seats in the cramped courtroom, as he sat down.

Later, as the judge read a two-hour long explanation of the court's findings, Brown again looked her way and whispered, "I love you."

He made no public comment following the sentencing.

In Japan's court system, both defense and prosecutors may appeal verdicts. No decision has been made on whether to appeal, although the court's decision angered Brown's attorneys.

"It was as though the court stabbed us in the back," said Toshimitsu Takaesu, the lead attorney in the case. "The ruling contains various

problems. Our client was charged with an attempted rape but found guilty of attempted indecent assault. That is a problem for us."

Outside the courthouse, he called the ruling unfair.

"If the court was going to examine the case by changing the charge, they should have informed us of the change," Takaesu said. "Our defense strategies would have been different. This was totally unexpected."

"However, we are pleased with the ruling that our client was not guilty of an attempted rape," interjected Takashi Takano, a Tokyo attorney who joined the defense in the middle of the trial.

"The court accepted our claim that the act was consensual," he said. "It is therefore a matter of course that the court found our client innocent."

The court ruled there was insufficient evidence to prove Brown attempted to rape Nakamine, 41, after she agreed to give him a ride after the officers club on Camp Courtney closed shortly after midnight on Nov. 2, 2002.

Judge Yokota said there was evidence Brown had arranged a date with the woman and she voluntarily parked her car on a deserted road along the Tengen River, where they talked and kissed.

He said Nakamine told Brown she would not engage in sex on the first date and asked him to stop touching her. He got out of the car, but she agreed to let him back in and drove to a better-lit stretch of the road, where she again parked and talked with the major.

That's when, the judge said, Brown grabbed the back of the woman's neck and pulled her head toward his lap.

"She resisted, saying she was not his slave," Yokota said. "He responded that she was."

That's when Nakamine threatened to call police on her cell phone and Brown threw it into the river, Yokota said. According to trial testimony, Brown then got out of the car and walked away and Nakamine drove to Camp Courtney's main gate and reported the incident.

She later said she exaggerated what had occurred to get police to pay attention to her and make Brown compensate her for the damaged cell phone.

Yokota said it was clear that some consensual contact had been agreed upon, but marks on Nakamine's neck showed some force had been used. However, the force was used in an attempt to perform an indecent act, not rape.

"They found him guilty of indecent assault only because he grabbed the woman by her head," Takano said after the hearing. "We cannot help but question the court's decision."

The trial was marked by a series of surprises, including one in May 2003, when Nakamine, testifying via closed-circuit television, denied Brown had tried to rape her and blamed police and prosecutors for coercing her to file charges. She said she did not understand enough Japanese, especially legal terms, to be able to read the statements she signed.

The judges disagreed, stating that she is married

to a Japanese man, has lived here since 1987, and knew enough Japanese to pass a Japanese driver's license written test.

Yokota said the three-member panel discounted her allegation as being "unnatural" and said she appeared to have been influenced by a \$13,500 deposit into her bank account the day before she changed her story. The source of the money has never been determined.

Brown's defense attorneys denied it came from anyone connected to the defense.

The prosecution had argued that, whatever the source, there existed the possibility the money made Nakamine change her mind.

Yokota said Brown was given a light sentence because the 21-year-Marine veteran had no prior criminal record.

"He spent his life honestly and diligently as an officer who started out as an enlisted man," Yokota said. Brown, assigned to the headquarters component of the III Marine Expeditionary Force, is married and has two children. He was held in the Naha Detention Center for five months before being released on bail in May 2003. Family members have indicated he will seek to retire.

*This article appeared in The Stars and Stripes, Pacific edition, July 10, 2004. Chiyomi Sumida contributed to this report.*

### **Marine in Okinawa gets suspended sentence for attempted molestation**

NAHA (Kyodo)— The Naha District Court in

Okinawa Prefecture on Thursday dismissed a charge of attempted rape and sentenced a U.S. Marine to a one-year prison term, suspended for three years, for attempted molestation and destruction of property.

Prosecutors had sought a three-year prison term for Major Michael Brown, 41, on charges of attempted rape and property destruction.

Presiding Judge Nobuyuki Yokota said in handing down the ruling, "The victim's testimonies to the court were incoherent and unnatural and some claims by the victim were exaggerated. But the court finds the process-verbal for criminal complaint produced during investigations admissible as evidence."

"There remains reasonable doubt about the accusation that the defendant had threatened to rape the victim," he said.

Brown had pleaded not guilty

The case made headlines in Japan because Brown was the first suspect the U.S. military had refused to hand over to Japanese law enforcement authorities after Washington agreed in 1995 to give "sympathetic consideration" to handing over military personnel who are accused of serious crimes in Japan, including murder and rape.

Japan has requested that the United States hand over suspects in four cases including Brown's and has succeeded in gaining custody of suspects in the three other cases.

Brown's trial took an unusual turn after the woman testified that she wanted the charges against Brown dropped, saying she did not want

to press them in the first place.

Despite the woman's own testimony, the prosecutors said a "strict" punishment was necessary.

Brown lodged an appeal twice to have all three judges removed from the case.

Brown's lawyer Takashi Takano said they will "carefully consider" whether to appeal the ruling.

Hiroyuki Kawami, deputy prosecutor at the Naha District Public Prosecutors Office, said, "We will thoroughly check the points that need to be considered, including the fact that the court did not recognize the attempted rape charge, after which we will consult with our superiors."

Col. Bradley Turner, chief of staff of the U.S. Marine Corps Base Camp Butler, issued a comment after the ruling, saying, "We regret any anxiety this issue has caused. The vast majority of U.S. service members conduct themselves in a positive manner that is beneficial to the U.S.-Okinawan community."

Koshin Iraha, chief of criminal investigations of the Okinawa prefectural police, meanwhile, refrained from commenting on the court's decision not to recognize the attempted rape charge.

According to the ruling, Brown tried to molest the woman on the morning of November 2, 2002, in a car in the city of Gushikawa. He was also found guilty of destroying the woman's property by throwing her cellphone into a river after she tried to call the police.

The Okinawa prefectural police obtained an

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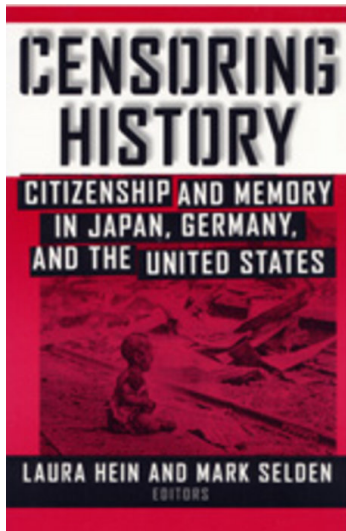
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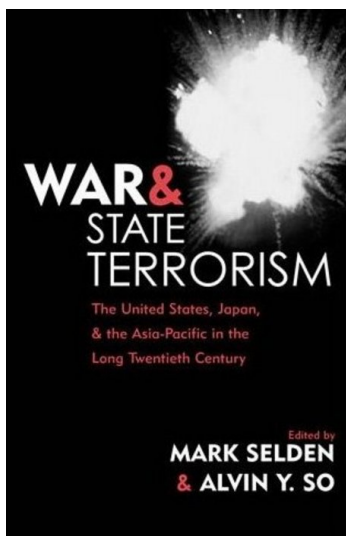
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