

UNCLASSIFIED//FOR PUBLIC RELEASE
MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY

AE 287

UNITED STATES OF AMERICA

v.

ABD AL-RAHIM HUSSEIN MUHAMMED
ABDU AL-NASHIRI

**DEFENSE MOTION TO DISMISS
CHARGE I FOR TU QUOQUE BECAUSE
THE UNITED STATES HAS A PRACTICE
OF USING CONCEALED EXPLOSIVE
BOATS**

1 July 2014

1. **Timeliness:** This request is filed within the timeframe established by Rule for Military Commission (R.M.C.) 905 and is timely pursuant to Military Commissions Trial Judiciary Rule of Court (R.C.) 3.7.b.(1).
2. **Relief Requested:** The defense respectfully requests this Commission to dismiss Charge I: VIOLATION OF 10 U.S.C. 950t(17) USING TREACHERY OR PERFIDY because, as alleged, using a unmarked boat to approach enemy vessels for the purposes of an attack is not a violation of the law of war, as evidenced by the United States acceptance of the practice.
3. **Overview:** Military commissions subject-matter jurisdiction is strictly limited to war crimes under international law. To be a crime under international law, the offense must be “firmly grounded in international law” and the acts alleged must be deemed law of war offenses by universal agreement and practice. Here, the specification of Charge I alleges that the accused’s participation in a plot to use unmarked boats to approach U.S. warships for the purpose of detonating an onboard mine is perfidious under international law. Failing to advertise the hostile intent of the crews of these boats, however, is insufficient to demonstrate a perfidious attack as a matter of law. There is no precedent in international law for such acts being deemed perfidy. Just like guerilla warfare on land, state practice affirms that the use of unmarked boats,

even military boats deliberately disguised as civilian watercraft, to approach otherwise legitimate targets for the purpose of delivering explosives is an accepted practice within naval operations.

4. Burden of Proof and Persuasion: The burdens of proof and persuasion are on the government, since this motion relates to the subject-matter jurisdiction of the Commission. R.M.C. 905(c). Denial of this motion will violate the defendant's rights as guaranteed by the Fifth, Sixth, and Eighth Amendments to the Constitution of the United States of America, the Military Commission Act of 2009, the Detainee Treatment Act of 2005, treaty obligations of the United States, and fundamental fairness.

5. Statement of Facts:

On 28 September 2011, the Convening Authority referred nine charges for trial by this military commission under the Military Commissions Act of 2009. Charge I alleges that the accused committed an act of Perfidy by Perfidy by inviting the confidence and belief of (various) crew members aboard the USS COLE by approaching the Naval Vessel in a civilian boat, dressed as civilians, waving at said crewmembers but intending to betray that confidence and belief with the design of detonating explosives aboard, and thereby killing 17 Sailors of the United States Navy.

6. Argument:

To be triable by military commission, the charge and specification of an offense must allege that the accused committed a war crime under international law. *Hamdan v. United States*, 696 F.3d 1238, 1245 (D.C. Cir. 2012) (“*Hamdan I*”). In order to ensure “the fair notice that is a foundation of the rule of law in the United States,” those customary law-of-war violations must “be based on norms firmly grounded in international law.” *Hamdan II*, 696 F.3d at 1250 n. 10 (citing *Sosa v. Alvarez-Machain*, 542 U.S. 692, 724-38 (2004); *Hamdan v. Rumsfeld*, 548 U.S.

507, 602-03 & n.34, 605 (2006) (plurality)). The “high standard of clarity” contemplated by the Supreme Court in this context is satisfied only where the alleged violation is “by universal agreement and practice, both in this country and internationally, recognized as an offense against the law of war.” *Hamdan*, 548 U.S. at 603 (plurality op.); *see also Sosa*, 542 U.S. at 732 (“Actionable violations of international law must be of a norm that is specific, universal and obligatory.”); *United States v. Ali*, 718 F.3d 929, 942 (D.C. Cir. 2013) (relying on *Hamdan II* to reject the extraterritorial application of the federal conspiracy statute because that offense is not “firmly established” under international law)

Here, Charge I alleges that the accused accused committed perfidy by using a civilian boat, civilian clothing waving. While perfidy, in and of itself, is arguably a war crime under international law, the acts the accused is alleged to have committed in ostensible perpetration of that offense do not satisfy the international law elements of perfidy. This is because to constitute a war crime, the underlying act of perfidy or treachery on which a valid charge of perfidy depends requires not just that an adversary be deceived but that the accused deliberately undertake to use “unlawful deceptions.” The Commander’s Handbook on the Law of Naval Operations, NWP 1-14M § 12.1.2 (Jul. 2007). And to be “unlawful,” the accused must engage in deliberate “deceptions designed to invite the confidence of the enemy to lead him to believe that he is entitled to, or is obliged to accord, protected status under the law of armed conflict, with the intent to betray that confidence.” *Id.*

In the context of naval and land warfare alike, that standard is typically met by the misuse of emblems of protection under the law of war, such as the Red Cross, or active misrepresentations of non-hostile intent, such as the offer of a truce. M.M.C., pt. IV(17)(c)(2). In warfare, armed forces in hostile territory know that they are under constant threat of attack, often

by surprise, and are concomitantly on the constant ready to mount an attack themselves. To be perfidious, therefore, a combatant must not only surprise his enemy but take affirmatively communicate to his enemy that he should lower his guard because what would otherwise be a potential hostile target is neither the lawful subject of attack nor capable of bearing hostile intent.

It is *not* unlawful, however, to mount an attack without advertising one's hostile intent. An individual does not commit a war crime by carrying out attacking without bearing a distinguishing emblem or carrying arms openly. Instead, the only legal consequence of failing to distinguish oneself as a combatant is the loss of combatant's privilege for any hostile act perpetrated. That is an undoubtedly serious consequence, insofar as it leaves individuals liable to domestic prosecution for otherwise lawful warlike acts and it forfeits their entitlement to prisoner of war status if captured. But "unprivileged belligerency" is not in and of itself a war crime under international law. Indeed, any other rule would make *every* unprivileged belligerent a war criminal. This would not only be inconsistent with state practice, it would convert every commando or covert operative who engaged in the time-honored practice of guerrilla warfare into an enemy of all mankind.

Consequently, the Office of Legal Counsel, whose opinions are binding on the whole of the Executive Branch, concluded that hostile acts carried out by officers of the Central Intelligence Agency ("CIA"), who deliberately conceal their hostile character and are unprivileged belligerents *par excellence*, are not war crimes. Indeed, it emphatically rejected the view that "any hostile acts performed by unprivileged belligerents are *for that reason* violations of the laws of war." Office of Legal Counsel, Memorandum for the Attorney General, *Applicability of Federal Criminal Laws and the Constitution to Contemplated Lethal Operations Against Shaykh Anwar al-Aulaqi*, 33, n.44 (July 10, 2010) ("OLC Memo") (included as

“Attachment A” to *New York Times v. United States*, No. 13-422, slip op. (2d Cir. Jun. 23, 2014)) (original emphasis). To the contrary, as long as an unprivileged belligerent’s “lethal activities [are] conducted in accord with the laws of war,” he cannot be branded a war criminal merely because he fails to bear arms openly or otherwise distinguish his hostile character in the course of carrying out combat operations. *Id.* In such case, he does not commit a crime under international law, but instead is simply “not entitled to the combatant’s privilege.” *Id.* “The contrary view,” which mistakenly views any hostile act from an assailant who fails to openly advertise his hostile intent as a war crime, “‘arises ... from a fundamental confusion between acts punishable under international law and acts with respect to which international law affords no protection.’” *Id.*, quoting Richard R. Baxter, *So-Called “Unprivileged Belligerency”: Spies, Guerillas, and Saboteurs*, 28 BR. Y.B. INT’L L. 323, 342 (1951).

Just as it is not a war crime for a guerilla fighter to wear the ordinary street-clothes of the local population *in lieu* of a uniform, it is not a war crime for a guerilla fighter to launch an attack from an ordinary boat. Indeed, engaging in so-called “unprivileged belligerency” at sea is a firmly established practice of the United States and other major world powers. Indeed, just a weeks ago, CNN reported that China, a permanent member of the United Nations Security Council, carried out an attack in a skirmish with the Vietnamese Navy using “a Chinese Coast Guard vessel disguised as a fishing boat.” Euan McKirdy, *Boats and brinksmanship up close in the South China Sea*, CNN (Jun. 5, 2014).

Throughout the First and Second World Wars, all sides concealed the hostile character of their warships and submarines in the course of maritime guerilla operations. The British and Americans made extensive use of such “Q-Ships,” either by retrofitting merchant vessels for combat or deliberately camouflaging warships to look like civilian vessels. Roger L. Crossland,

Unconventional Warfare Afloat, Proceedings (November 1981).¹ The Axis powers regularly disguised their submarines as fishing boats. See, e.g., Mark K. Roberts, *Sub: An Oral History of U.S. Navy Submarines* 83 (2008) (“We engaged in very little surface action. On the *Bluegill*, we surfaced a couple of times. It was always a fishing boat or disguised [as a] fishing boat. We would take them out easily, but it would be suicide to surface and try to take on a destroyer.”).

Some of the most celebrated naval “ruses” of the Second World War involved nothing more than using watercraft designed to look like civilian fishing boats to enter hostile harbors and bomb enemy ships. Operation *Jaywick* remains a celebrated part of Australian military history. A small team of Australian commandos dressed themselves as local civilian fishermen and insinuated themselves into Singapore Harbor in a Japanese fishing boat. While so concealed, they used their cover to attached limpet mines to Japanese ships, seven of which were destroyed. According to the Australian government’s official record of the attack, “Operation *Jaywick* was one of the most daring and celebrated special operations undertaken in World War II.” Australian Government, Department of Veterans Affairs, *Operation Jaywick*.²

The most elaborate and pertinent example here, however, was Operation *Javaman*, a joint program of the Office of Strategic Services (“OSS”) and the Army Air Corps. Originally called Operation *Campbell*, “JAVAMAN was a missile craft ... designed to effect the sabotage of enemy vessels and installations which, because of tight protection by inner and outer harbor defenses, could only be attacked by using operational deception. Disguised as an ordinary craft normal to the area of operations, JAVAMAN would operate by remote control radio from an

¹ Available at <http://dreadnaughts-bluejackets.com/pdf/UnconventionalWarfareAfloat.pdf>

² Available at <http://www.dva.gov.au/aboutDVA/publications/commemorative/jaywick/Pages/index.aspx>

aircraft and be aimed by the use of television.” War Department, Strategic Services Unit, *War Report of the OSS (Office of Strategic Services)* 230 (1976).

What is remarkable about Operation *Javaman* is that the United States went to far greater lengths to misrepresent these “boat bombs” as civilian fishing craft than anything that has been alleged against the accused. The OSS planning documents are clear. “The penetration of enemy defenses requires deception which can be devised from reports of OSS operators familiar with the habits and customs of native craft which have freedom of the harbor.” OSS Presentation, *CAMPBELL – A Joint AAF and OSS Project* (Sept. 1944) at 10 (Attachment A). Proposed disguises for the boat bombs included a “Mandalay wood boat,” a “Cantonese harbor craft,” as well as a Irrawaddy river steamer.” *Id.* All were deliberately chosen because their civilian appearance. Indeed, the effort to give the boat bombs a peaceful appearance even included mechanical devices designed to create “an effect of movement and life aboard the craft ... gained by sitting a life-sized dummy of a native at the helm of the boat. His body – activated by a universal joint – swings with the movement of the craft and with the tiller in his hands.” *Id.* at 11.

The OSS prepared films demonstrating the strategy and utility of these boat bombs. One such demonstration video specifically lauds the fact that “for deception purposes, *Campbell* lends itself easily to a variety of possibilities: as a fishing boat native to the area of operations, as one of the miscellaneous utility craft that crowd harbors, even as an enemy supply or light combat vessel.” *Id.* “Waterborne missile ‘Campbell’ disguised as a fishing boat” (1944).³ The concept was demonstrated in the video by concealing a 3400lb bomb in a fishing boat, complete with a mannequin depicting a Danish fisherman. This was done because the “choice of a fishing

³ Available at http://www.criticalpast.com/video/65675040188_fishing-boat_Campbell-missile-test_missile-disguised-as-fishing-boat_attack-on-enemy-ship

boat is especially apt for an OSS sabotage operation. No matter how well guarded an enemy harbor may be, the authorities pressed for food are forced to let the local fishing fleet continue operating.” *Id.* It then describes how the “the disguised missile will of necessity will approach its target at the normal speed of fishing craft, which of course is well under 800 rpm. At such speeds, hydroponic detectors will not differentiate the speedboat’s motives. When it goes over 800rpm, it is on its target run and the necessity for disguise no longer exists.” *Id.*

The *Javaman* operation was approved at the highest level of the United States military. “In the spring of 1945, General MacArthur approved the dispatch of personnel and equipment for JAVAMAN, a secret weapon developed by the Special Projects Branch.” War Department, Strategic Services Unit, *War Report of the OSS (Office of Strategic Services)* 116 (1976). The only reason the United States never used them was that by the time the OSS had readied them for deployment, in August 1945, the war was over. *Id.*

In apparent recognition of this tradition, the San Remo Manual specifically authorizes “ruses of war,” and only prohibits “[w]arships and auxiliary vessels ... from launching an attack whilst flying a false flag ... [or] actively simulating the status” of seven specific categories of vessel. Louise Doswald-Beck (ed.), *San Remo Manual on International Law Applicable to Armed Conflicts at Sea*, 12 June 1994 § 110 (Cambridge 1995). These seven categories do not include the “miscellaneous utility craft that crowd harbors,” but instead are limited to such distinctly peaceful and protected craft as “passenger vessels carrying civilian passengers,” *id.* § 110(b), and “vessels engaged in transporting cultural property under special protection.” *Id.* § 110(g). It is, therefore, unsurprising that the government has failed to identify a *single* example from the centuries of naval warfare, where individuals have been punished as war criminals for

failing to announce that one of the “miscellaneous utility craft that crowd harbors” has a hostile intent before mounting an attack.

There can be no question, therefore, that using an unmarked craft to “approach” hostile targets, as the prosecution alleges the accused plotted to do here, is not a war crime any more than Operations *Jaywick* or *Javaman* were plots to commit war crimes. U.S. Navy warships are *per se* legitimate objects of attack. The government has made no allegation that the accused took active steps to “invite the confidence of an adversary to lead it to believe that it is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict.” San Remo Manual § 111(a). Other than failing to bear his boat’s arms openly, there is no allegation that the accused utilized protected markings that would have signaled to the crew that the boat was *necessarily* peaceful.

In fact, the only allegation of any communication with the crew of the USS COLE is the bare assertion that individuals on board the attacking boat waved before they attacked. As an initial matter, even taken at face value, a wave is not an unambiguous expression of protected status, nor is the wearing of civilian clothes. Indeed, neither the accused nor his co-plotters are alleged to have gone to any of the lengths to conceal their true intentions that the OSS did with the direct approval of General Douglas MacArthur. But more importantly, this allegation of waving is not against the accused. Why the accused is answerable for a possible war crime committed by someone else committed in the course of carrying out an otherwise lawful guerilla attack is a mystery. If such a standard were applied to our own armed forces, every member of a platoon would be war criminals if other member committed a war crime. That is not the law and such “collective punishments” violate the peremptory norm that “No one shall be convicted of an offence except on the basis of individual penal responsibility.” Protocol Additional to the Geneva

Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Geneva, 8 June 1977, Article 6(2)(b).

Finally, the doctrine of *tu quoque* prevents the United States from punishing such conduct as a violation of customary international law. Though inapplicable to peremptory norms of international humanitarian law, the *tu quoque* defense arises wherever the prosecuting power has itself done the identical act as the accused. The reason is twofold. The superficial reason is that *tu quoque* is a safeguard against “victor’s justice,” when a prosecuting power has dirty hands. But the overriding reason is that the perpetration of the identical acts by a prosecuting power is compelling evidence that state practice has not yet crystalized to firmly establish a particular act as a war crime under international law. This is particularly so when the prosecuting power is a world superpower.

The primary authority for both principles is the prosecution of Admiral Dönitz at the International Criminal Tribunal at Nuremberg. Dönitz was accused of carrying out unrestricted submarine warfare. The United States, however, had carried out unrestricted submarine warfare in the Pacific theatre. As a consequence, the Tribunal concluded that, while a technical violation of the protocols governing naval warfare, Dönitz could not be sentenced as a war criminal for using precisely the same battle tactics as the prosecuting powers. The Trial of German Major War Criminals. Proceedings of the International Military Tribunal sitting at Nuremberg, Germany, pt. 22 (22 August 1946 – 1 October 1946) (“the sentence of Dönitz is not assessed on the ground of his breaches of the International Law of submarine warfare.”); *see also War Crimes (Preventive Murder) (Germany) Case*, 32 I.L.R. 563, 564 (1966) (“no State may accuse another State of violations of international law and exercise criminal jurisdiction over the latter’s

citizens in respect of such violations if it is itself guilty of similar violations against the other State or its allies.”).

To be sure, as the government has argued in the past, the *Dönitz* precedent has been interpreted as allowing *tu quoque* as an immunity from punishment, but not judgment. If that is the line the government wishes to draw, then the accused must sit through the motions of a trial on Charge I, but this Commission will have to instruct the members at sentencing that his conviction on Charge I can yield no sentence, not the least a capital sentence.

If that process sounds utterly bizarre, it is because the judgment/punishment distinction the government relies upon is drawn from international criminal tribunals, where the finders of fact also decide all questions of law. The adjudication process such tribunals undertake allows, indeed encourages, the presiding panel of judges to make judgments about the content of international law without necessarily rendering a particular individual punishable under it. Like qualified immunity in the civil context, a judgment of guilty with no sentence allows for the rational development of customary international law without finding that an individual is personally culpable for violating what was not firmly established in the law at the time of his alleged conduct. *Cf. Plumhoff v. Rickard*, 134 S.Ct. 2012 (2014) (explaining how it is “often beneficial” to decide whether an individual violated a constitutional right before deciding whether that right was “clearly established” because doing so “promotes the development of constitutional precedent and is especially valuable with respect to questions that do not frequently arise[.]”) (citing *Saucier v. Katz*, 533 U.S. 194, 200 (2001)); *Prosecutor v. Brdjanin*, Case No. It-99-36-A (I.C.T.Y. App. Ch., 5 May 2005) (“although the principal mandate of the Appeals Chamber is to consider legal errors invalidating the Trial Chamber’s Judgement or factual errors occasioning a miscarriage of justice, it has repeatedly held that it may also consider

legal issues that are ‘of general significance to the Tribunal’s jurisprudence,’ even if they do not affect the verdict ... [as a] means of moving forward this ad hoc International Tribunal’s jurisprudence within the limited time in which it operates and contributing meaningfully to the overall development of international criminal law”).

Here, however, the military judge sits between the members’ determination of guilt and any decisions on the content of the law. It is not up to the members to decide questions of international law or to contribute to the development of that law. Instead, this Commission is required to dismiss any charge or specification that fails to allege acts that are “by universal agreement and practice, both in this country and internationally, recognized as an offense against the law of war.” *Hamdan*, 548 U.S. at 603 (plurality).

As the Manual itself acknowledges, “[t]he line of demarcation between legitimate ruses and forbidden acts of perfidy is sometimes indistinct.” M.M.C., pt. IV(17)(c)(2). When, as here, state practice not only condones but often celebrates guerilla warfare at sea, the accused’s alleged acts in this case fall far too short of that “line of demarcation” to qualify as war crimes punishable in a military commission. That is particularly so, when that state practice is drawn from the United States and other permanent members of the U.N. Security Council. Charge I must accordingly be dismissed.

7. **Oral Argument:** The defense requests oral argument on this motion.
8. **Conference with Opposing Counsel:** The defense has conferred with the government and it opposes the requested relief.
9. **List of Attachments:**
 - A. OSS Presentation, *CAMPBELL – A Joint AAF and OSS Project*, Sept. 1944 (18 pages)
10. **List of Witnesses: None**

Respectfully submitted,

/s/ Brian Mizer
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/s/ Daphne Jackson
DAPHNE L. JACKSON, Capt, USAF
Assistant Detailed Defense Counsel

/s/ Richard Kammen
RICHARD KAMMEN
DOD Appointed Learned Counsel

CERTIFICATE OF SERVICE

I certify that on 1 July 2014, I electronically filed the forgoing document with the Clerk of the Court and served the foregoing on all counsel of record by e-mail.

/s/ Daphne Jackson

DAPHNE L. JACKSON, Capt, USAF

Assistant Detailed Defense Counsel

ATTACHMENT

A

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MAR 5 1968

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ARCHIVES
USA CGSC FT LEAVENWORTH KAN

FEB 23 1963

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ACCESSION NO _____
NO REGISTR _____

JUL 18 1967
JUN 21 1965

CAMPBELL

A JOINT AAF AND
OSS PROJECT

PROPERTY
DEPARTMENT OF INTELLIGENCE
C&GSC
FORT LEAVENWORTH, KANSAS

REGRADED *Declassified*
BY AUTHORITY OF *John W. ...*
BY *John W. ...*
ON *...*

EXCLUDED FROM GENERAL DECLASSIFICATION SCHEDULE

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OSS
PRESENTATION

September 1944.

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~~SECRET~~ DECLASSIFIED CAMPBELL

INTRODUCTION

Campbell is a H.E. missile-craft, operated by remote radio control with the aid of television, and disguised when necessary for deceptive approach.

The combination of these tested principles fits Campbell for its specific mission.

MISSION

The mission of Campbell is the sabotage of enemy targets inaccessible to other methods of attack. These targets—protected by inner and outer harbor defenses—are best approachable by operational ruse and deception.

Trained personnel, television and radio equipment, and three sizes of standard radio-controlled craft are available to carry out such missions.



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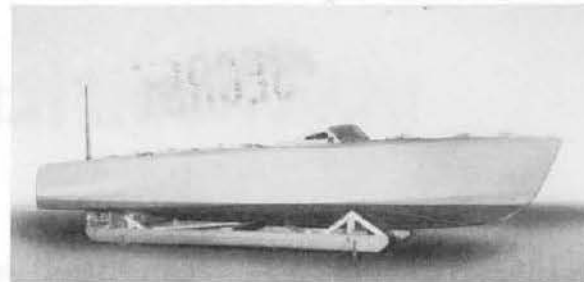
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THE MISSILE

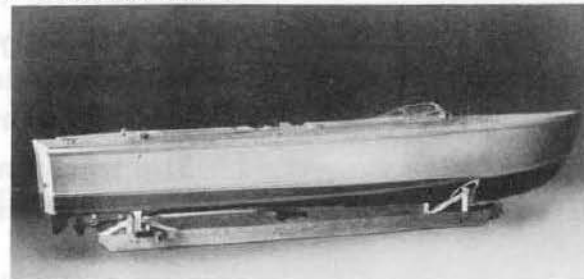
Campbell may be operated by radio control aided by television—with or without disguise, or by manual control—with or without disguise.

In manual control the operator maneuvers the boat as close to the target as he can and still remain beyond danger of shock. He then arms the charges, heads the boat at the target at full speed, locks the controls, and jumps to safety with the gyroscope keeping the missile on its course.

Although the distance from which the missile can be controlled is limited by the range of the radio and television apparatus, the operating range of the missile is limited only by the cruising range of the boat and by the amount of fuel provided.



A-2 HACKER CRAFT



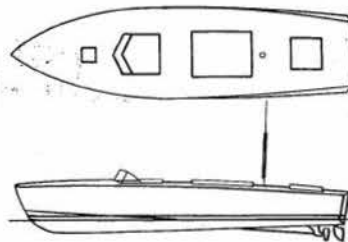
A-3 HACKER CRAFT



ARMY RESCUE BOAT

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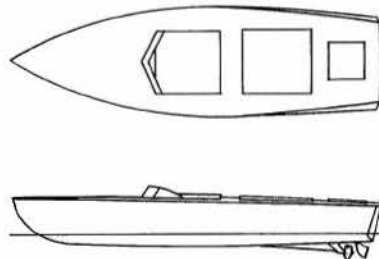
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A-2 HACKER CRAFT

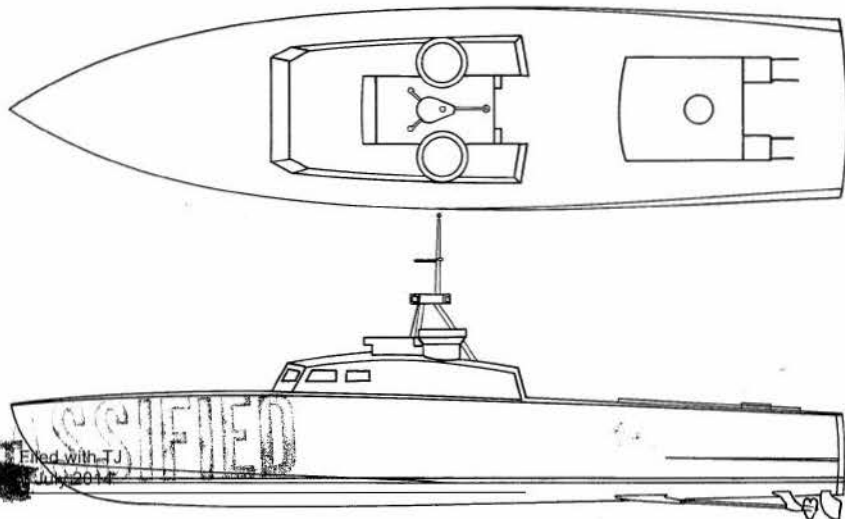
L.O.A.: 34 ft. 11 in.
 Beam: 9 ft.
 Capacity: 5000 lbs.
 explosives
 Power: 550 h.p. Kermath
 gasoline engine
 Top Speed: 35 m.p.h.
 Range: 220 miles

3



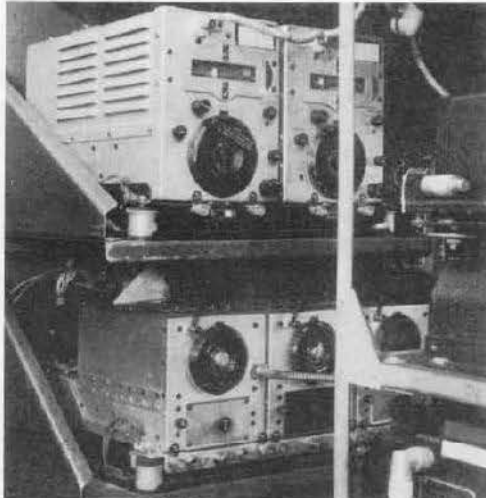
A-3 HACKER CRAFT

L.O.A.: 37 ft.
 Beam: 11 ft. 3 in.
 Capacity: 10,000 lbs.
 explosives
 Power: 550 h.p. Kermath
 gasoline engine
 Top Speed: 35 m.p.h.
 Range: 220 miles



ARMY RESCUE BOAT

L.O.A.: 85 ft.
 Beam: 20 ft.
 Capacity: 50,000 lbs.
 explosives
 Power: Two 1250 h.p.
 Packard motors
 Top Speed: 30 m.p.h.
 Range: 700 to 1500 miles

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REMOTE RADIO CONTROL EQUIPMENT



OPERATOR AT CONTROL SWITCH

REMOTE CONTROL

Tests show that the remote control point may be as far as 20 miles away from the scene of action. It may be located in a plane, a mother ship, a submarine, another small boat in the harbor, or in a concealed spot ashore and operated by OSS agents.

Apparatus at the remote control point consists of a television receiver and radio control equipment of several small units weighing a total of 200 pounds.

The radio control apparatus (AN/ARW-8X) has two groups of channels, each with five controls.

The first and basic group has the following directional and speed controls: (1) ignition switch; (2) forward—to accelerate the engine; (3) backward—to reduce the speed; (4) right rudder; (5) left rudder.

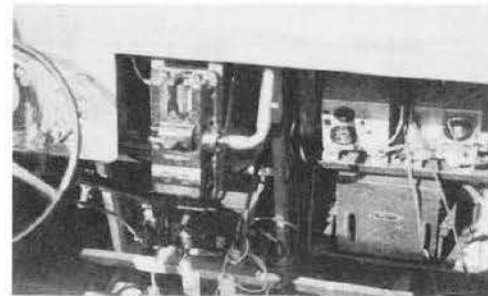
The second group determines the auxiliary controls: (6) detonation—to scuttle the boat; (7) sonics—sound track and smoke exhaust; (8), (9), and (10) are available for additional controls as demanded by specific operations.

A single remote control operator can direct the missile. By shifting the switch into the proper radio channel he sends out impulses that activate the craft.

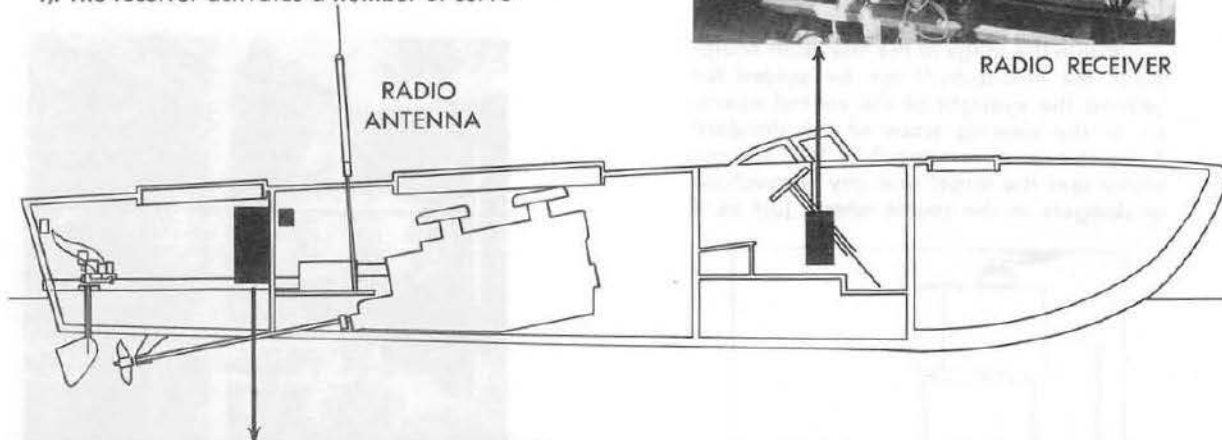
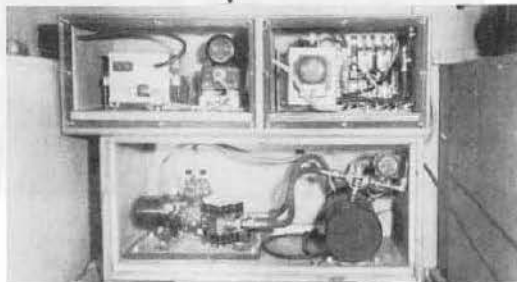
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Whatever the size of the missile-craft the remote control equipment aboard is the same. An antenna picks up the radio impulses for the radio receiving set (AN/VRW-1). The receiver activates a number of servo



RADIO RECEIVER

RADIO
ANTENNA

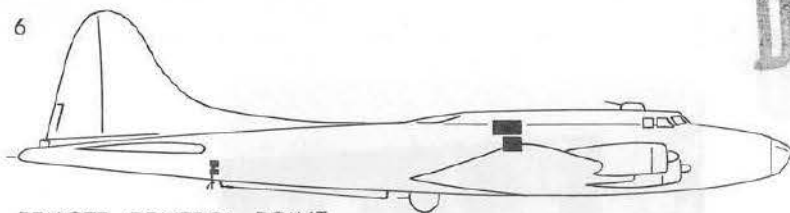
RADIO CONTROLLED STEERING EQUIPMENT

units which in turn direct the ignition, throttle, rudder, and other controls of the boat.

If operations permit the missile-craft to be kept within eyesight of the remote control point, television apparatus may not be required.

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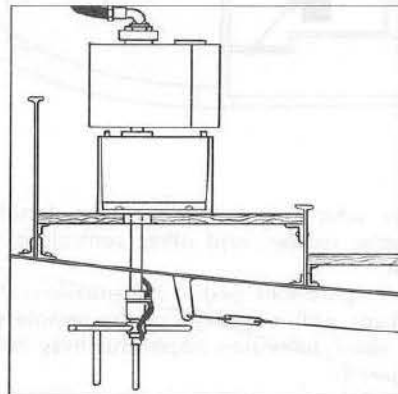
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REMOTE CONTROL POINT

TELEVISION

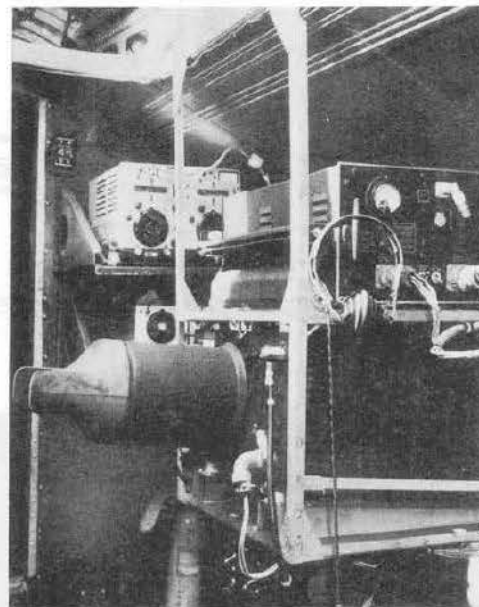
Within the range of the television equipment, the missile-craft can be guided far beyond the eyesight of the control operator. In the viewing scope of the standard Army television receiver (SCR-550), the operator sees the target and any obstructions or dangers in the course ahead just as if



GYROSCOPIC ANTENNA

DECLASSIFIED

he were at the wheel of the missile-craft itself. Reception is kept at the same level by a gyroscopic antenna on the plane that is synchronized at all times with the wish-bone antenna on the missile.



TELEVISION VIEWING SCOPE

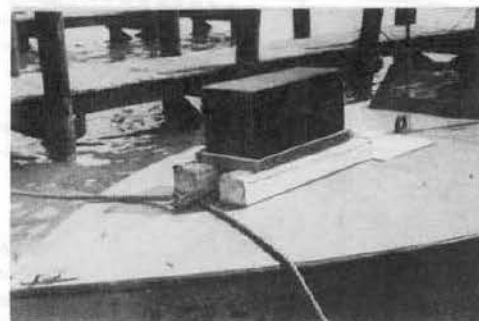
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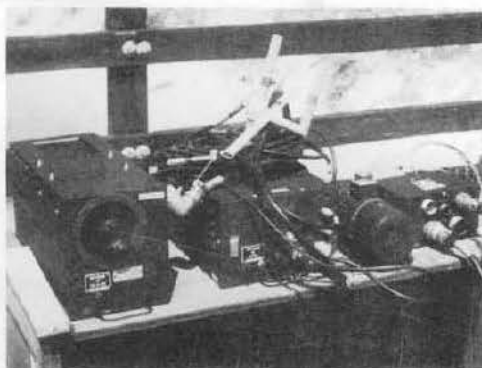
The image on the screen at the remote control point is picked up by the standard Navy ATK television camera in the bow of the boat. Like any other camera it will focus on infinity and pick up anything within sight short of the horizon. It has a 22 degree horizontal angle of vision. The camera is fitted with a gyroscopic compass that can be clearly seen on the screen at all times, giving the operator the exact course of the craft. The entire camera—or conversion unit—is boxed in a sound, shock, and moisture-proof casing. The transmitter sends the images seen by the camera to the remote control point.



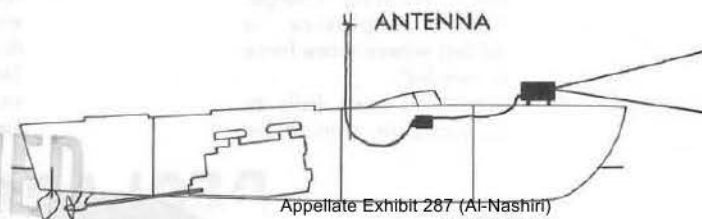
TELEVISION VIEW OF COURSE



TELEVISION CONVERSION UNIT



TELEVISION EQUIPMENT



MISSILE-CRAFT

Appellate Exhibit 287 (Al-Nashiri)

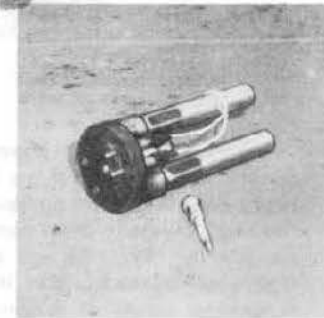
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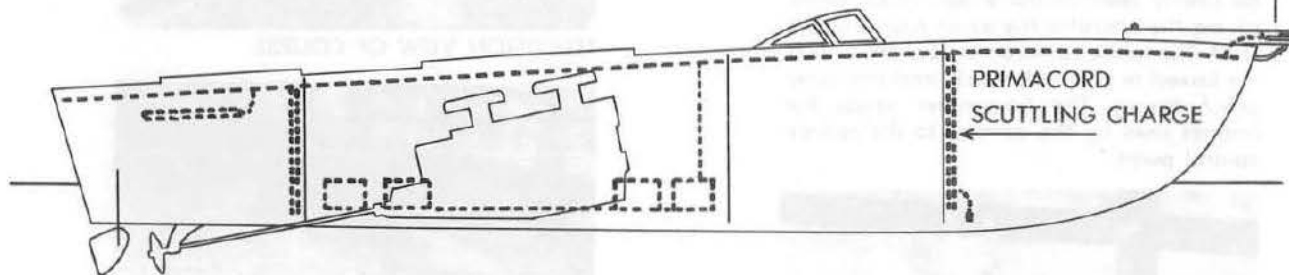
DEMOLITION

Two sets of explosives are carried on the missile-craft—one to scuttle it, the other to destroy the target.

Normally, the scuttling charge is set off when a pin-up device in the bow strikes the target.



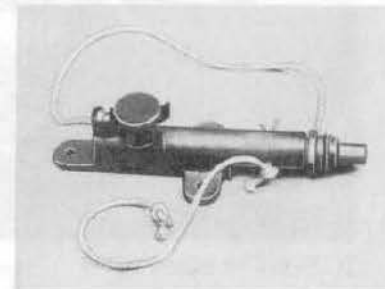
PIN-UP DEVICE



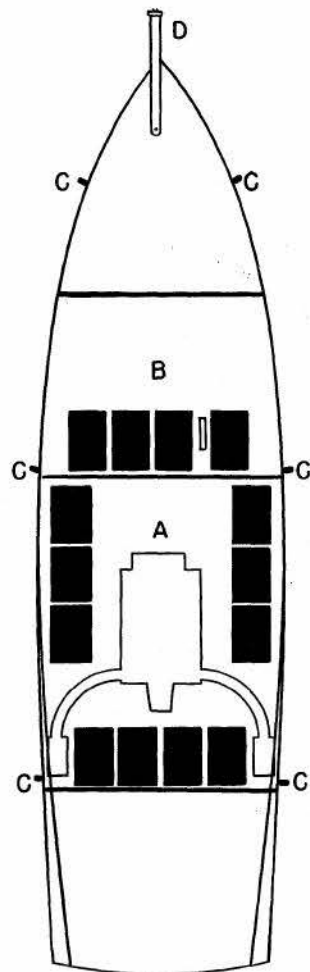
Primacord – wound about the interior of the missile at the bottom and on the bulkheads – is the main scuttling charge. Plastic explosive is added where more force is needed.

If the boat fails to hit head on, contact fir-

ing switches around the gunwales detonate the primacord. Additional emergency detonators can be fired by remote radio control if the operation requires or if discovery is imminent. Time delays can also be used for operations and security.



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PLACEMENT OF CHARGES

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1 July 2014

Depth charges, depth bombs, TNT, Torpex, Tetratol, Composition C-2, aerial bombs, or other explosives available in the theater of operations may be used as a demolition charge.

The charges are equipped with hydrostatic fuses which can be set for various depths. To prevent the scuttling charge from setting off the main charge prematurely, each of the high explosives is protected by individual compartments made of plywood.

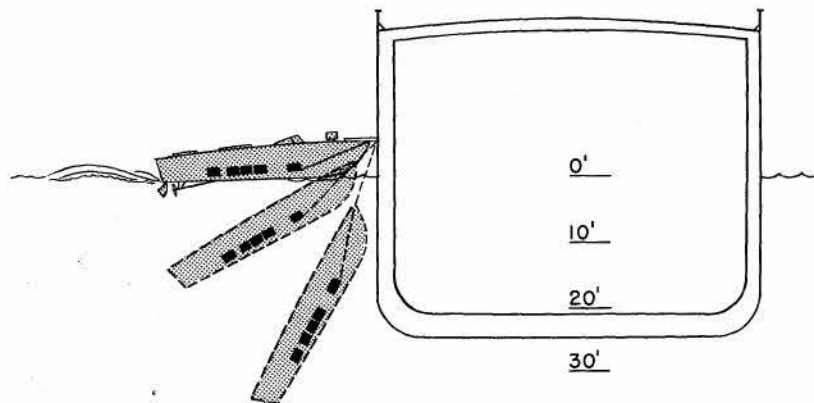
"A" shows location of main charges in the engine room compartment.

"B" shows location of main charges in the control cockpit.

"C" is the location of the contact firing switches.

"D" is the pin-up device.

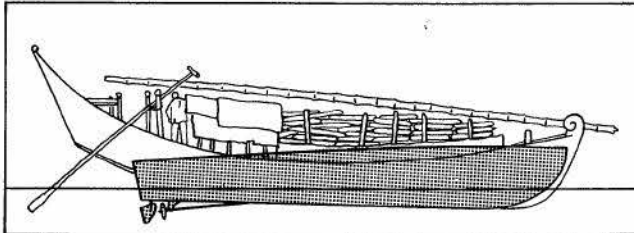
On contact the pin-up device shoots two case-hardened steel holding pins into the target. At the same time it detonates the scuttling charge. The scuttling charge blows away the bow and stern of the missile-craft and shears off the bottom. The missile, loaded with explosives, sinks rapidly. At a predetermined depth the main charge explodes. A steel cable attached to the pin-up and to the frame of the missile holds it to the target - keeping the explosion of the main charge close in.



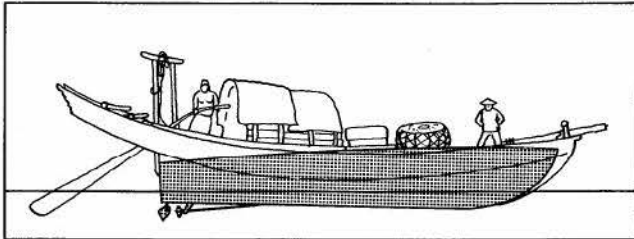
DEMOLITION PLAN

Appellate Exhibit 287 (Al-Nashiri)
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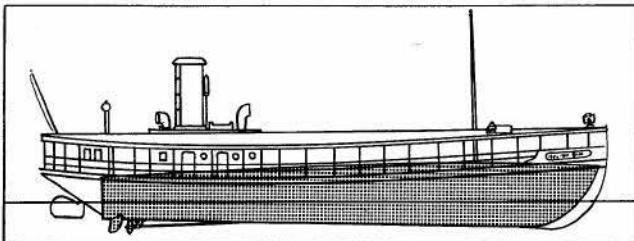
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X-RAY VIEW OF A-2 DISGUISED AS MANDALAY WOOD BOAT



X-RAY VIEW OF A-3 DISGUISED AS CANTONESE HARBOR CRAFT



X-RAY VIEW OF ARMY RESCUE BOAT DISGUISED AS IRRAWADDY RIVER STEAMER

DISGUISE

The penetration of enemy defenses requires deception which can be devised from reports of OSS operators familiar with the habits and customs of native craft which have freedom of the harbor.

In addition to a knowledge of recognition signals, net and boom defenses, underwater sound defenses, mine fields, time schedules, harbor regulations, and other local defenses, a complete custom-built disguise is generally necessary.

The disguise is determined from intelligence reports and photographs and by the size of the missile necessary to accomplish the mission.

If contact can be made with local sympathizers, a particular boat is duplicated for substitution with the original.

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To disguise the boat, a false hull of plywood is superimposed over a light frame attached to the missile. Length, breadth, and characteristic lines are added as well as aging, identifying marks, colors, and deck accessories.

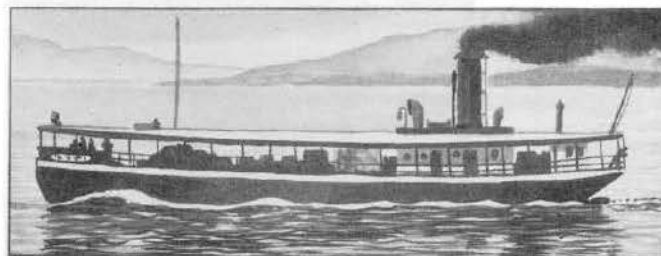
The speedboat engine is muffled and the engine compartment is sound-proofed while a loud-speaker amplifies a sound recording of the native engine. The sound recording is provided by a loop of film run continuously on a 16 mm. projector. Ignited raw cotton linters give off smoke that is blown into an exhaust pipe and released in synchronization with the exhaust cycle. In addition to sonics an effect of movement and life aboard the craft is gained by sitting a life-sized dummy of a native at the helm of the boat. His body-activated by a universal joint-swings with the movement of the craft and with the tiller in his hands.



A-2 DISGUISED AS MANDALAY WOOD BOAT



A-3 DISGUISED AS CANTONESE HARBOR CRAFT



ARB DISGUISED AS IRRAWADDY RIVER STEAMER

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OPERATIONAL DISGUISE

On August 11, 1944, at 7 a.m. in the Gulf of Mexico off Pensacola, Campbell was tested under simulated operating conditions. The operation was designed to test maneuverability by remote control, seaworthiness, reality of disguise, and ability of Campbell to sink a ship.

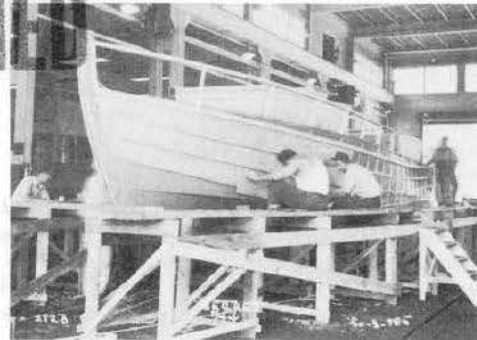
For the purpose of this test the missile-craft was disguised as a Danish fishing boat



AREA S974 DENMARK COPENHAGEN
FISHING BOAT IN HARBOR.
PARTIAL VIEW OF CITY - OSS 4532

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1 July 2014

OSS INTELLIGENCE PHOTOGRAPH



DISGUISE UNDER CONSTRUCTION

operating out of Copenhagen. Its mission was to destroy the 5000-ton, 300-foot freighter S.S. San Pablo.

On the basis of OSS Intelligence reports covering Copenhagen fishing craft, an A-2 Hacker craft was converted into the specific Danish fishing boat - the K354 - with a single mast and a one-cylinder diesel motor.



A-2 DISGUISED AS DANISH FISHING BOAT

Appendix Exhibit 267 (A. Nashum)

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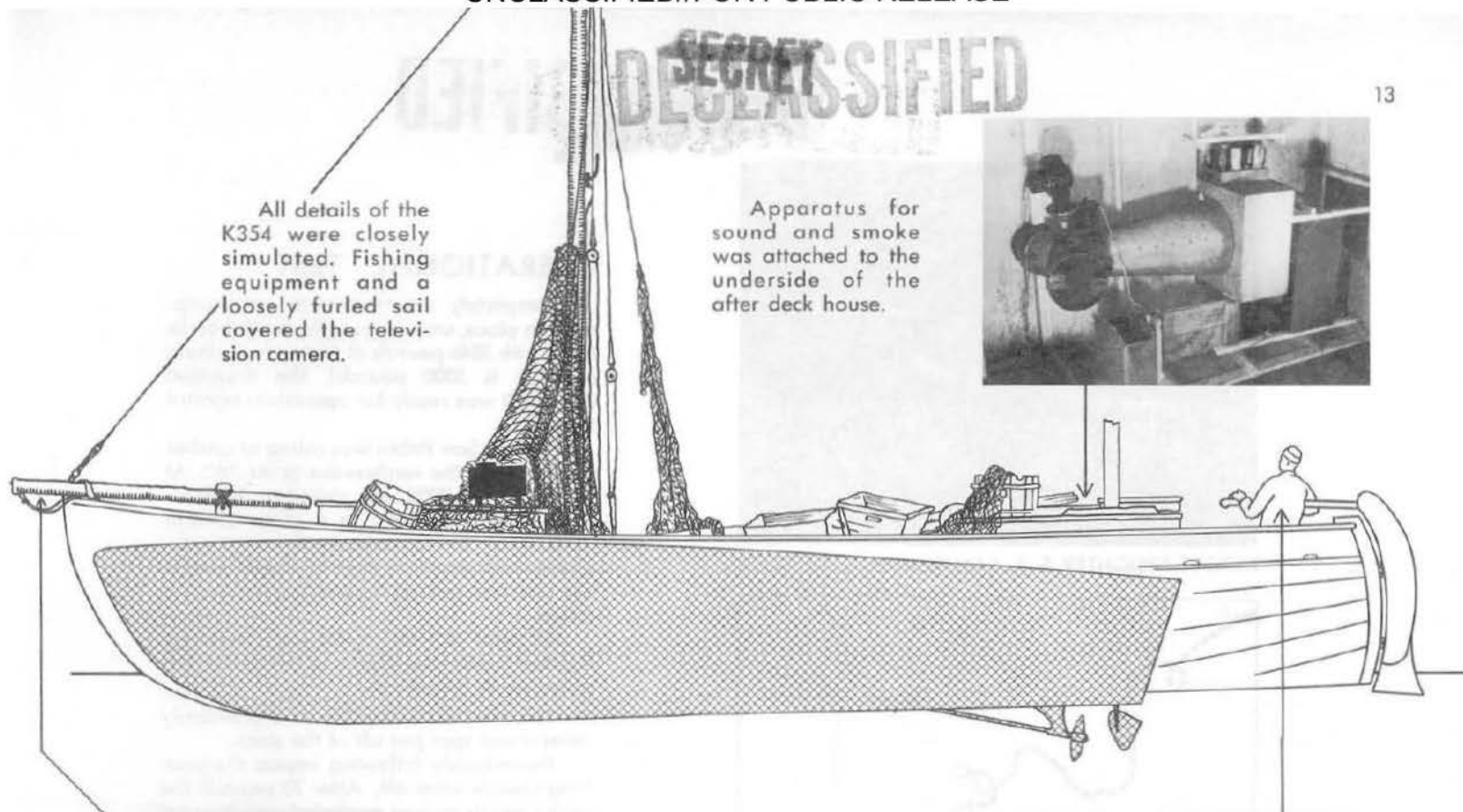
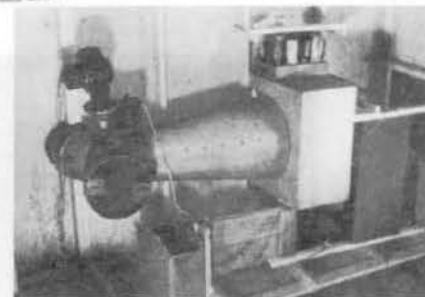
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All details of the K354 were closely simulated. Fishing equipment and a loosely furled sail covered the television camera.

Apparatus for sound and smoke was attached to the underside of the after deck house.



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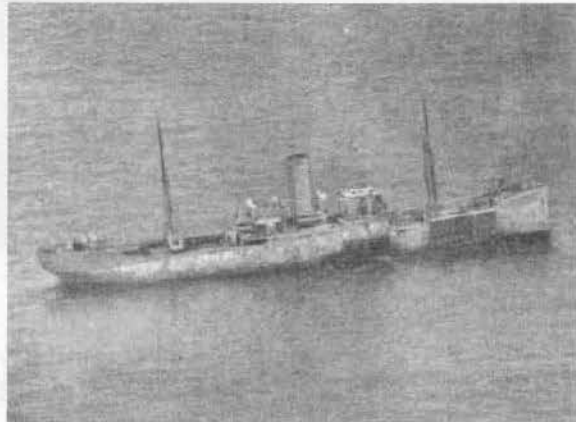
The pin-up device was concealed in the housed bowsprit, and the attached steel cable disguised as the bobstay.

A dummy of a Danish fisherman sat in the cockpit moving as if he were controlling the tiller.

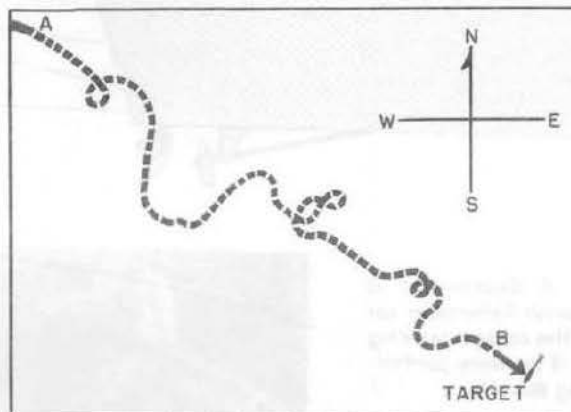


Appellate Exhibit 287 (Al-Nashiri)
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TARGET FREIGHTER S. S. SAN PABLO



PLAN OF OPERATIONAL TEST RUN

OPERATIONAL TEST

Completely disguised, with all equipment in place, and carrying 14 depth bombs filled with 3846 pounds of torpex (maximum capacity is 5000 pounds), the disguised Campbell was ready for operations against the target.

The S.S. San Pablo was riding at anchor 8 miles from the rendezvous point "A". At point "A" the K354 was picked up by a remote control operator in a plane several miles away. To demonstrate the maneuverability and complete control of the missile, the operator guided it close to and around buoys.

At point "B"—about 400 yards from the S.S. San Pablo—the K354 was headed at full speed on its target run.

The missile hit the ship at a previously determined spot just aft of the stack.

Immediately following impact the scuttling charge went off. After 25 seconds the major depth charge exploded—sending up a geyser of water approximately 600 feet

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high. The upper right hand photograph shows the resulting shock wave as photographed by aerial observers.

The S.S. San Pablo sank by the stern. In one minute and 40 seconds it was completely under water.

Underwater examination of the hull showed that a hole 40 feet high and 60 feet



VIEW THROUGH TELEVISION VIEWING
SCOPE BEFORE STRIKING TARGET

wide had been blown in the ship. The back of the vessel was broken and the stern was held to the rest of the ship by only a few top deck plates and stanchions. The missile was completely destroyed.



SHOCK WAVE AS OBSERVED BY PHOTOGRAPHIC
RECONNAISSANCE PLANE



EXPLOSION OF MAIN CHARGES

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CONCLUSION

Campbell is designed for the specific mission of sabotaging enemy vessels and installations inaccessible to other methods of attack. These targets — protected by inner and outer harbor defenses — are approachable by the use of operational deception.

Campbell with trained personnel and complete equipment is available for the immediate carrying out of its mission.

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