

The Trial Before the Trial of
Duncan v. Kahanamoku

An adaptation based on the court transcript

This mock trial is appropriate for middle and high school students. The script includes a role for a narrator, who sets the scene and gives context.

Instructions

This trial is rather short and illustrates the way in which military tribunals were handled in Hawai'i during World War II. The average trial under martial law at the time lasted no more than fifteen minutes and the conviction rate was around 98%. It should also be noted that a majority of military officers who sat as provost marshals were not trained in law.

Time: The trial should take no more than 10 minutes.

Room set up: Set up a desk for the Provost Marshall and a witness stand with a chair

Roles:

- Colonel Jack Dunn – Provost Marshal
- Lloyd C. Duncan – Defense worker at Pearl Harbor, Defendant
- Corporal Robert Carl Bowerman – Marine gate guard, Plaintiff
- Marine Guard – Official Escort
- Narrator

Mock Trial Script

Narrator: We are now in the provost court of Colonel Jack Dunn, U.S. Army. The date is March 25, 1942.

Provost Marshal: Good morning Mr. Duncan.

Lloyd Duncan: Ah, good morning sir.

Provost Marshal: Now, this is the second day you're in my court because yesterday the prosecution witness was not around. So, now that he's here, let's hear your story and get the trial underway.

Lloyd Duncan: I plead not guilty to assault.

Provost Marshal: Mr. Duncan, where were you born?

Lloyd Duncan: Well, sir, I was born in Sheridan, Montana.

Provost Marshal: And how old are you?

Lloyd Duncan: I'm 25 but I don't see why you need to know this information. It has nothing to do with what happened that night. If you let me explain, I can tell you what really happened that night.

Provost Marshal: According to the gate guard, you were drunk, got in an argument with him and attacked him. Corporal, please come up and identify yourself.

Corporal Bowerman: My name is Robert Bowerman and I'm a Corporal in the U.S. Marines. I'm a guard at the main gate detachment at Pearl Harbor, in charge of men and I am to make sure they carry out their duties and to correct them if anything is wrong.

Provost Marshal: And what are their duties, Corporal?

Corporal Bowerman: To check identification, to make sure nothing is stolen, that there are no disturbances, that no liquor, cameras or unauthorized firearms enter the Navy Yard. And, to keep order at the gate.

Provost Marshal: On the night of February 23rd, do you recall clearly your altercation with Mr. Duncan?

Corporal Bowerman: Yes, sir.

Provost Marshal: On that night were you struck by Mr. Duncan?

Corporal Bowerman: Yes, sir. My upper lip and lower lip, and I had a cut on my left eye – I was bleeding.

Provost Marshal: How were the injuries inflicted on you?

Corporal Bowerman: I took Duncan over and sat him down and asked for his badge. He said he wasn't going to give it to me. So I reached for it. He was holding on to it. I tried taking it off and that's when he clipped me with his fist. I wasn't expecting it. Private Hunter was there and tried to hold him down so I could get his badge. He was kicking and screaming some cuss words and that's when he got me in the eye. It was deliberate. He hit Hunter too.

Provost Marshal: Thank you Corporal Bowerman, you may return to your seat. Mr. Duncan, what do you have to say for yourself?

Lloyd Duncan: That's not the way it happened at all. My hometown friend, Bob Weities, and I went and had dinner that night since he was in port for a few days. Bob's a merchant seaman. After dinner downtown, we went back to my place for a few drinks. At 9:30 we went to the gate so that he could catch the truck for the ferry back to his boat. The guard, I guess it was Bowerman, said that Bob needed to go to Pearl City to catch the ferry. I didn't think that was true and told him so. Well, Bowerman got ticked off and grabbed my badge that I had hanging around my neck. He's the one that started the fight.

Provost Marshal: We've already heard the Marine's side of the story so we don't need more information from him right now.

Lloyd Duncan: But, but...I have a witness too, just ask Bob! It didn't happen that way. Like I said, Bob and I were waiting for the truck to the pier to get him back to his boat. I was just sitting there.

Provost Marshal: Corporal Bowerman, what can you add to the story?

Corporal Bowerman: Well, Colonel. Mr. Duncan and Weities seemed drunk to me. I was only doing what my superior officers instructed me to do. I was told that the truck to Weities boat was in Pearl City. I asked Mr. Duncan for his badge and that's when he got nasty and came after me. I needed to protect myself and guard the gate. I was only doing my duty, sir.

Provost Marshal: So, Mr. Duncan, the guards were only doing their duty, you should have given them your badge. Mr. Duncan, I hereby find you guilty of assault and sentence you to confinement and hard labor for six months in the county jail. Guard, take Mr. Duncan away and lock him up.

Narrator: The trial adjourned, however the case wasn't over. The case made its way to the U.S. Supreme Court.