

RODRIGUEZ, J., concurring in part

SUPREME COURT OF THE UNITED STATES

No. 1

PROSECUTION v. DEFENSE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF DA VINCI DESIGN

[February 13 & 15, 2017]

JUSTICE RODRIGUEZ, with whom JUSTICE SALVATIERRA, JUSTICE MENDEZ, JUSTICE GONZALEZ, JUSTICE PRADO, JUSTICE ABADA-CORDERO, and JUSTICE PETERS join, concurring.

The first deployed atomic bombs the world had seen were dropped by an American B-29 bomber during World War II on two Japanese cities, Hiroshima and Nagasaki. On August 6, 1945, the first bomb was dropped on Hiroshima immediately killing 80,000 people. Three days later the second bomb was dropped on Nagasaki killing approximately 40,000 people. The widely debated topic taken to the Supreme Court discussed whether or not the attacks done by the United States are justifiable. The prosecution argued that the atomic bombs were a military tactic used to win World War II, while the defense claimed that the bombing was inhumane and unnecessary to win the war. Given the provided evidence or lack of, during the trial, the Supreme Court decided that the prosecution won the trial. The bombings of Hiroshima and Nagasaki are justified because the United States used them as a military tactic to save lives, win World War II, along with reconstructing post-war Japan.

Despite that the Prosecution's delivery during the court trial could have had several improvements, their evidence was distinct. The Japanese attack on Pearl Harbor resulted in the United States to enter World War II, eventually using the atomic bombs as a military tactic exclusively as a defense from Japan. Japanese forces attacked the US naval base, Pearl Harbor on December 7, 1941. President Truman discussed the atomic bombings on Japan, "I realize the tragic significance of the atomic bomb... having found the bomb, we have used it. We have used it against those who attacked us without warning at Pearl Harbor, against those who have starved and beaten and executed American prisoners of war, against those who have abandoned all pretense of obeying international laws of warfare. We have used it in order to shorten the agony of young Americans.

We shall continue to use it until we completely destroy Japan's power to make war. Only a Japanese surrender will stop us" (Compton). Truman verbally recognizes the inhumane acts done by the Japanese military to American soldiers. Necessarily, the atomic bombs were used to strike the Japanese enemy whose combat composed of ruthlessness. The Prosecution argued that military tactics used by American soldiers be far more dangerous, increasing the death rate during World War II. During the trial, the Prosecution stated that "Trench Warfare, [consisted of] rats, lice, and disease. [Along with having an] Estimated 5,000 deaths daily, and estimated 200,000 deaths total." The amount of deaths from disease along with other conditions eventually would have caused many more deaths, if trench warfare took place. The United States military would have gone with their initial strategy if the bomb were not dropped to, invade; the outcome would have been severally different. A number of deaths could have been lost by invading Japan, bringing me to side with the Prosecution. Throughout the trial, the Defense continuously mentioned the quality of mortality over the quantity of deaths caused by the bombings. Though, the Defense did not mention the current effects of the nuclear bombs, such as radiation. Thus, their absence of relevant evidence along with attempting to appeal to my opinion during the trial further encouraged me to side with the Prosecution. If the invasion went through the United States Army would have had to learn the Japanese way of combat. Karl T. Compton a physicist stated that, "A month after our occupation I heard General MacArthur say that even then, if the Japanese government lost control over its people and the millions of former Japanese soldiers took to guerrilla warfare in the mountains, it could take a million American troops ten years to master the situation" (Compton). The larger amount of time a war takes place comes with a greater death rate, in this case, the United States was attempting to minimize the death of both the Japanese and Americans. To do so the atomic bombs needed to be dropped to save lives. An invasion was discussed to get Japan to surrender to the United States. However, the invasion could have resulted in a larger death count, "We didn't know whether they [the Japanese] could be caused to surrender by other means or whether the invasion [of Japan] was really inevitable... We thought the two overriding considerations were the saving of lives in the war..." (Morton). America's initial intention during World War II was to win the war and to have the least amount of American and Japanese lives lost. For America to accomplish this motive, the atomic bombs needed to be dropped to get Japan to surrender. Lives saved by the dropping of the nuclear bomb is more important than the quality of death some people encountered. World War II was a war, and ultimately the goal of war is to win while having a minimum amount of casualties. The United States needed to drop the bomb to win the war, and by

doing so, they were able to save lives. An invasion of Japan would have killed more people than the bombing of Hiroshima and Nagasaki. Not using the atomic bombs, “would have forced the U.S. to launch a full invasion of Japan’s home islands, and this would have killed far more people than Hiroshima and Nagasaki” (Keck). The invasion would have resulted in several deaths from both sides. Thus studies were conducted to see which method could save more lives. The United States took crucial steps before deciding to drop the atomic bombs. William Shockley, a physicist, conducted a study “for the staff of Secretary of War Henry Stimson estimated that the invasion of Japan would cost 1.7-4 million American casualties, including 400,000-800,000 fatalities, and five to ten million Japanese deaths” (Miller). By dropping the two atomic bombs on Hiroshima and Nagasaki, lives were saved. Lives lost by the nuclear bombs in numbers are not comparable to the lives that would have faced death by invading Japan. This argument brought by the Prosecution along with its relevant evidence that the dropping of bombs saved lives supported my decision because the quality of death can not bring one's life back. Saving lives by killing few is much more relevant. One of the several reasons I sided with the Prosecution was because of their sufficient evidence presented during the trial strengthening their arguments. The military tactic of dropping the bomb to save lives along with allowing the United States to win the war caused me to conclude that the bombings are justifiable.

The Prosecution argued with precise evidence that Japan did not surrender. Leading me to believe, the United States dropped the atomic bomb on Japan to get them to surrender. The United States proposed peace with Japan during World War II; Japan attacked Pearl Harbor shortly after. Franklin Roosevelt, “personally appealed for peace directly to the Japanese emperor, Hirohito, on December 6th. The following morning, however, Japanese aircraft carrier-based planes attacked the U.S. Pacific fleet at Pearl Harbor in a devastating, surprise attack” (Bordelon). Japan looked over the United States proposal of peace once they attacked Pearl Harbor. The United States could not trust an enemy who was given a peace offering but did the exact opposite of being peaceful. Thus, when the prosecution team mentioned Japan's denial for peace, the Supreme Court justices along with myself recognized that power in the hands of Japan could be deleterious. Japan declining peace offered by the United States revealed that they were not to be trusted primarily because the morning after Japan attacked Pearl Harbor. The proposal of peace “weighed on their minds when the Potsdam Declaration arrived (July 27-28), calling on them [Japan] to surrender unconditionally or face immediate destruction. Yet they rejected the four-power ultimatum, feeling as former prime minister and Navy ‘moderate,’ Admiral Yonai Mitsumasa, said to his secretary on July 28, ‘There is no need to

rush” (Bix). The Japanese were in no rush because they were attempting to come up with a plan so Japan would not surrender to the United States, ultimately giving Japan world power. Emperor Hirohito of Japan had the loyalty of his citizens. To Japanese military “bushido meant dedication of their lives to the emperor; defeat was viewed as shameful; surrender was dishonourable; those who surrendered were worthy only of contempt; and compassion for defeated enemies, male or female, the elderly, or tiny children, was weakness” (“An Attempt...”). If Emperor Hirohito possessed world power, his role as Emperor could have converted to a role as a dictator, eventually having egregious effects to all nations. Dictatorship during World War II was occurring all over Europe, and the Prosecution mentioned that tyranny spread towards Asia could have resulted in dictated nations. Further, reassuring my decision to believe that the atomic bombs are justified. Hirohito notified his country to fight against American troops at all costs. Japanese soldiers along with civilians “were readying their forces for an all-out, death to the last man, woman, and child fight. The government of Japan rejected unconditional surrender even if the house of the emperor was preserved” (Burnham). The Japanese dedicated their lives to prove their loyalty to Emperor Hirohito; parents threw their children in the midst of war to fight for him. During the trial, the Prosecution presented the control Emperor Hirohito had on Japanese citizens. Power in the hands of the wrong person is destructive to those who are directly affected, in this case, Japanese citizens. Therefore the Prosecution holds my vote because of their supportive evidence and logical arguments, unlike the Defense. Along with Hirohito's dominance as an Emperor of Japan, the progress of postwar Japan examined by the Prosecution assisted me to believe the bombings of Japan are justifiable.

The bombings of Hiroshima and Nagasaki were a war tactic enabling the United States to win World War II along with reconstructing postwar Japan to become an independent, thriving nation. After the United States had won World War II, they intended to restore postwar Japan. Orders were made “on 10 September 1945: first, that the Japanese construct their own internment camps, and, secondly, that the Japanese produce food and daily essentials to provide for themselves... to remain self-sufficient after the surrender once they [Japan] had moved to designated campsites and constructed living facilities there” (Bullard). The United States had Japan build internment camps but only to guide them to a future of success and rehabilitation. Agriculture was one of Japan's necessities into becoming a flourishing nation. Hence, “It was considered necessary to give the highest priority to the recovery of agricultural production in order to rehabilitate the country which was suffering from starvation... Clothing, farming tools and food stuff were allowed on every repatriation ship... Repatriation ships

alone could bring home as much as 1,850 tons of food, 8,000 items of farming tools and a large volume of clothing and paper as relief supplies” (Bullard). The United States helped Japan recover from the war by providing them with the necessary supplies required for Japanese survival. Presented by the Prosecution the United States assisting the Japanese people to rehabilitate themselves displayed how the United States would manage their power. Supporting their argument as to why the United States should be given world power during World War II instead of Japan. Due to the opportunity by the United States to rebuild themselves, Japanese citizens were able to rebuild their country, and if they were incapable of doing so, Australia would support Japan. If the Japanese “had failed to harvest sufficient food by the time the stock ran out, the Australians would have had to guarantee the provision of supplements” (Bullard). The United States recognized that it was essential for Japan to become an independent country however if problems arose Australia was prepared to help the Japanese people. The internment camps were constructed to encourage Japan further to become the independent country they once were. Rabaul a city in Japan “was unique in having such a long, clearly defined period between the surrender and repatriation, memoirs written by veterans indicate that lectures on mathematics and physics were also delivered...the miraculous economic recovery of Japan could be attributed not only to domestic rehabilitation policies but also to the repatriation of nearly six million Japanese (half of whom were military personnel) who had been detained in such a way” (Bullard). Japanese cities that had internment camps were able to rebuild themselves both economically and agriculturally. This argument presented by the Prosecution further supported that the United States had an interest in Japan's future since they were so willing to help. The United States played a significant role in shaping Japan into the innovative country we recognize today. In a generation, “Japan achieved both full democracy and the amazing, much-studied ‘economic miracle.’ This is still the Japan of today: developed, democratic, and peaceful. The factors, internal and external, that led the country from an ultranationalist war machine to a land of passivity and high-tech exports are as numerous as they are impossibly complicated” (Fisher). Japan after the war was remarkably successful in the years to come because of help from the United States and its allies. It is clear that the bombing of Hiroshima and Nagasaki had a positive result on both the Japanese and Americans. Post-war Japan was given the opportunity to rebuild themselves along with allowing American soldiers to go back home to their families. I am on the Prosecution's side because the Defense failed to acknowledge the current effects from radiation Japan suffers from during the trial. If the radiation effects were mentioned during court, my decision might have had shifted. However, since the

consequences of radiation were not mentioned my opinion sided by the Prosecution because of their logical arguments that were supported by evidence.

Debated by the Defense was that the atomic bombs and unconditional surrender were irrelevant to winning world War II considering Japan ultimately kept Emperor Hirohito. Nevertheless, Japan was allowed to keep Emperor Hirohito as a result of Hirohito encouraging Japan to surrender after the bombs dropped on Japan. During the trial, the Defense mentioned the unconditional surrender the United States required not to attack Japan. The unconditional surrender declared “Japan would retain its sovereignty, but the current leaders had to step down” (“World War II’). Emperor Hirohito was one of the current leaders during World War II. The reason why the United States unconditional surrender included Hirohito to resign as Emperor was because of his controlling influence on the people of Japan. Hirohito mentally constrained the people of Japan; he was viewed as their God, and the Japanese would do anything he asked, including putting their life at risk. Hirohito's influence displayed that his power could turn into destruction because he could quickly become a dictator with the Japanese citizens on their knees. Following Japan's surrender, Emperor Hirohito accepted the terms of the Potsdam Declaration. In a speech, he, “commanded Japanese to ‘endure the unendurable’ are a central inflection point in the Japanese death and rebirth that played such a major role in the 20th century. Hirohito's historic address marked the end of World War Two and the end of imperial Japan's ultranationalist ideology, but it was also a beginning: of the American occupation and of a new Japan” (Fisher). Hirohito's speech addressing the surrender to the United States was opposite to what he had been telling the Japanese people before their surrender. Following his speech, Emperor Hirohito no longer was recognized as a threat to the United States. Thus, the United States allowed Japan to keep their Emperor. The decision was made because of Hirohito's speech which supported the new American control in Japan. The citizens of Japan ““wished to both forget the past and to transcend it,’ Dower wrote, and Japan set about to rise out of the ashes of its own destruction, this time with ideals and goals almost the polar opposite of before. ‘The ideals of peace and democracy took root in Japan -- not as a borrowed ideology or imposed vision, but as a lived experience and seized opportunity’” (Fisher). Hirohito's speech supported Japanese citizens to look over the past and acknowledge how to create an excelling nation. Essentially the Defense argued that the threat of the dropping of the bomb unless Japan unconditionally surrendered not be a necessity because Japan was able to keep Hirohito after World War II was over. However, Emperor Hirohito was no longer forced to resign because the United States no longer viewed him as a threat since he was on their side after the attacks on Japan. Thus, the bombing of Japan was a

needed because it brought Hirohito to come to terms with the United States along with allowing Japanese citizens to discover a new hope for the future.

My decision to side with the Prosecution was solely based on the logical arguments that supported the evidence presented during the court trial. Despite being astonished by the Defenses trial presentation, I came to realize that little too few arguments were of logic and lacked relevance. The Defenses trial could have been better organized yet they failed to explain how emotion could become logical. If the Defense had used better-suited arguments that they already had but were not presented during court, I might have reconsidered my decision. Although, both the Prosecution and Defence failed to clearly answer the question as to whether or not the bombing of Hiroshima and Nagasaki are justifiable, further confusing the Supreme Court Justices. However, the Prosecution provided the most logical evidence during the trial. Thus, I sided with the Prosecution, justifying the drop of the atomic bombs on Hiroshima and Nagasaki as a result that it was the most logical, saved lives, along with reconstructed post-war Japan.

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