

CITY OF MEXICO, *April 18, 1848.*

The court met pursuant to adjournment.

Present: All the members, and the judge advocate, and recorder.

Major General Scott present.

Major General Pillow before the Court.

Private David Ayres, company H, 15th infantry, for defence, duly sworn:

Question by defence. Were you in the battle of Churubusco, and what duty were you on that day?

Answer. I was orderly for General Pillow, and in that battle.

Question by defence. What do you know about General Pillow's firing at, or shooting a Mexican officer? Say where it occurred, and such particulars connected with the matter, as you recollect?

Answer. It was near the bridge or fort which is around the bridge, on the road that leads towards where General Worth had been engaged with the enemy; there were some three or four Mexican officers came in the direction towards the bridge or fort where General Pillow was advancing; he drew his pistol and fired at one of the officers. One of the officers fell off his horse. The horse started towards General Pillow. General Pillow gave directions to a soldier that was standing near him to take the horse. The Mexican officers were moving towards the bridge. This was after the bridge head had fallen.

Question by defence. State if any of General Pillow's staff officers were with him at the time; if not, state, if you know, where they had gone?

Answer. There was none with him at the time. Lieutenant Ripley had been sent by General Pillow to General Scott. Captain Hooker had gone towards the church where the white flag had been raised; sent there by General Pillow to receive the flag. The exact words of General Pillow's orders I do not remember; it was respecting the flag the Mexicans had hoisted. Where the other staff officers were I do not remember, as I had not seen them for some time.

Question by defence. What work does witness mean as the one he thought General Worth had been engaged at?

Answer. I mean the one on the opposite side of the church from the bridge, which is surrounded by the main work, and opposite to the road leading to the city along which General Pillow was advancing.

Question by defence. Were the Mexican officers retreating rapidly or slowly?

Answer. I should call it rapidly.

Question by defence. From what direction were the Mexican officers retreating, and towards what place were they advancing?

Answer. They were retreating from the west, and towards the bridge surrounded by the fort. That was an easterly course.

Question by defence. How near were you to General Pillow at the time he shot the officer?

Answer. I was within some two rods of him, I should think. It might have been nearer. It was a very short distance.

Question by defence. About how far from the bridge fort was General Pillow when he shot the officer?

Answer. I do not know the exact distance it was. I could not tell the exact distance.

Question by defence. Is witness now acting as orderly for General Pillow, or what is he engaged at?

Answer. I am now acting orderly for Colonel Bonham, of the twelfth.

Question by defence. How long since witness ceased to act as orderly for General Pillow; and when did he join his company?

Answer. It was some three or four days after the battle of the 20th, that I was sent to my company.

Question by prosecution. When did you leave General Pillow as orderly, and from what cause?

Answer. As I stated before, it was some three or four days after the battle of the 20th. I can give no other reason, without it was that he was at General Scott's quarters the second day after the battle of the 20th—that is the 22d; I was there with him. He came out to start to go home—took his horse. The horse bridle was off, and he told me that I had been drinking and did not attend to my duty. I think these were the words he used. He gave Captain Hooker, I think it was, the order in my presence, to send me to my company.

Question by prosecution. To what soldier did Major General Pillow give the shot Mexican's horse?

Answer. I do not know. It was an infantry man, however.

Question by prosecution. How came witness to know that Lieutenant Ripley, just at that time, had gone to General Scott, and that Captain Hooker had gone to the church? Has the witness's memory been helped on this subject; and if so, by whom has the witness's memory been helped?

Answer. I was with General Pillow when he gave them orders to go—my memory has not been helped.

Question by prosecution. When did Major General Pillow first send for the witness on the subject of shooting the Mexican officer, and where was the witness stationed at the time?

Answer. I was stationed at the time at Chapultepec. The time I cannot exactly state. It was near a month before the regiment left for Cuernavaca.

Question by prosecution. How many times, in all, has the witness been sent for to come to Major General Pillow, and what passed between the said Pillow and witness on those several occasions?

Answer. I have been sent for once. He asked me then, if I was orderly for him on the 20th. I told him I was. He asked me if I was with him at the time, or knew any thing about shooting a Mexican officer. I answered that I believed that I did. He wanted that I should state (there were two or three officers in the room)



where it was—that I should go on and state the circumstances as they were—were his words. I did so. He told me that was all that he wanted of me. I left them and returned to my company.

Question by prosecution. At some visit to Major General Pillow, did not the witness sign some written statement, and if so, who drew up the statement?

Answer. I did not.

Question by prosecution. Has not the witness stated to Lieutenant Colonel Howard, or some other officer, that he, witness, had made more than one visit to Major General Pillow about the slain officer?

Answer. No, I have not.

Question by prosecution. How far from the captured bridge, and on which side of the road, was the Mexican officer shot?

Answer. The distance I do not know. I could not state. It was on the west side of the road.

Question by prosecution. At which end of the bridge was it, that the Mexican officer was shot? Was it on the end next to the city, or the opposite end of the bridge?

Answer. It was at neither end. It was on the west side of the bridge.

Question by prosecution. On which side of the creek or canal was the Mexican officer shot? was it on the side next to this city or on the opposite side?

Answer. It was on the opposite side from the city.

Question by prosecution. Had any American troops already been advanced beyond the bridge, towards this city, when the Mexican officer was shot?

Answer. I think there had.

Question by prosecution. Which way did the four Mexican officers appear to be going, when they approached Major General Pillow, and he shot one of them?

Answer. They appeared to be going, as I stated before, towards the bridge, or towards the east.

Question by prosecution. If the bridge had been carried by the Americans, and some had passed beyond the bridge, why should the Mexican officers approach the bridge, in order to escape to the city?

Answer. I do not know.

Question by prosecution. How far off were the four Mexican officers when Major General Pillow shot one of them?

Answer. As I stated before, I believe, I could not say.

Question by prosecution. Were the four Mexican officers, at the time, approaching in a manner that showed they meant to attack the Americans, or to surrender themselves as prisoners of war?

Answer. If I were to decide, I should say that they did not appear to me to want to surrender as prisoners of war.

Question by prosecution. Did either of the four Mexican officers, or the whole of them, fire before or after one of them was shot?

Answer. They did not fire, either before or after, as I noticed.

Question by prosecution. Were Major General Pillow and witness alone when the Mexican officer was shot?

Answer. I state, we were not alone, as there was an infantry man near by—the one to whom he gave directions to take the horse.

Question by prosecution. Was there no American present at the shooting of the Mexican officer, but Major General Pillow, the witness, and the infantry man?

Answer. Not at that place. There might have been others near by, and I not have noticed them.

Question by prosecution. How far was General Pillow from other American officers and men, at the time of the shooting?

Answer. I could not state. There were others on the main road there, some of whom we had passed; how far, I could not state.

Question by prosecution. Where were the other officers and men of Major General Pillow's command when he shot the Mexican officer?

Answer. Where they were I could not tell.

Question by prosecution. Is the witness certain there was no American officer present but Major General Pillow, when the Mexican officer was shot?

Answer. I am sure there was none *with* him, at that time, where we were.

Question by prosecution. How did it happen that Major General Pillow was, at the time of shooting the Mexican officer, detached or separated from the officers and men who belonged to his command?

Answer. That is more than I can tell—I do not know. The fore part of the engagement, I was holding his horse, and I suppose he was with his men, on foot, as I was in the rear a short distance. When he came back to where I was, and motioned to me to fetch his horse to him, I led his horse to him, and he then advanced on horseback. The reason that I was not with him, when he was on foot, there was a very wide ditch, which he could not get his horse across. He gave me his horse, and told me to lead his horse around, on to the main road; that he would cross the field with his men. He jumped into the water, in trying to jump across the ditch; and I went back through the lot, and round into the road, near where they were engaged with the enemy, and waited there with the horse until he called for it.

Question by defence. What became of the shot Mexican officer; was he killed dead, or only wounded; and did Major General Pillow and the witness go up to the shot Mexican, when he was on the ground?

Answer. I think he was not killed—only wounded—for I saw him move after he fell from his horse. What became of him, I do not know; for I returned back, immediately after that, on to the main road, where there were some wagons and some men.

Question by prosecution. What became of the other three Mexican officers, after the other had been shot?

Answer. I do not know what became of those. They turned round and went back, the same way they had come.