Hell Or High Water
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Chapter 3  White’s War

The stagecoach conveyed White to the army fort at Sacramento. He was shortly transformed into an infantry private, described for the official records as: “Ht: 5’ 7”—Eyes: blue—Complexion: Fair.” Posted to San Francisco, he found his brief stay memorable only because he spent it standing guard at the military stockade on Alcatraz Island. In February 1862, his outfit sailed down the coast to San Diego and Camp Wright, his first and only voyage on the Pacific Ocean. In May the unit marched over the mountains and through the sand dunes to Fort Yuma.

As a teamster in the Quartermaster Corps, White spent a lot of time waiting around on the riverbank, getting acquainted with the steamboats and hearing vague bits of trivia about remote upriver settlements. And of course he learned the ubiquitous joke about the Fort Yuma soldier who died and went to hell but came back the next day for his blanket.

In February of 1863, his outfit made the long march from Fort Yuma to Tucson, then, in the following May, to Cooke’s Spring, New Mexico Territory. That June the soldiers ended up in Franklin (now El Paso), Texas. White had a brief stint riding herd on army cattle at Las Cruces, New Mexico, in July, the only break from the monotonous,
boring, and repetitive wartime activities of an army unit that encounters no enemy and does no action. It was a strange war for these forgotten soldiers. But, in the end, White did find himself engaged in a battle, not against the Confederacy, but against the military itself. The opening shot came in early September 1864; he had only three months left on his enlistment.

White was on guard duty at the post stockade when the lieutenant appeared with a small Mexican boy in tow and ordered all guards and prisoners lined up outside; the officer asked the boy, “Which one?” After a brief hesitation, the boy pointed at James. The officer immediately ordered White to a cell in the stockade.

It would be useless to speculate on White’s state of mind at that moment—shock, fear, anger, or confusion. As was his way, he went to the cell in silence. Within an hour, he was joined by a Private Higgins and another soldier; they soon heard the charges against them: stealing two hundred pounds of coffee from the post commissary, taking it across the Rio Grande into El Paso (now Juarez), Mexico, and trading it for whiskey. It was stated, with remarkable vagueness, that the crime had occurred on either September 8, 9, or 10.

The three men spent a month in the stockade listening to the rumors: Mexican border guards had seen several soldiers crossing the Rio Grande with sacks, which they dropped when shouted at; the guards did not know the soldiers; the dealer who had received the coffee said he knew them; this dealer, Butshoffsky, was an American, a former army man who had apparently helped build the commissary and later deserted and skipped over the border to safety.

The soldiers at Franklin had always crossed to the Mexican border town freely, drawn by friendly people, cheap Mexican goods, and the colorful sights, especially the brightly dressed women and children. Most of them knew who Butshoffsky was; they bought goods from his store but were not on friendly terms with the man.

The accused soldiers maintained their innocence, but no one was listening. On October 13, a special order convened a court martial. The prisoners were advised they could call their own witnesses and question the army’s witnesses; each prisoner was required to defend himself and prove where he had been and what he had been doing on each of the three nights specified.
Two depositions were taken on October 20 at Franklin, Texas. One came from a border guard, Sefelino Silvas (in Spanish, duly translated by the commissary sergeant); the guard was vague: He did not know the soldiers, he did not remember the date. The other was from Butshoffsky, whose status as a deserter was conveniently overlooked by army prosecutors. He claimed to have been awakened (at midnight or maybe 1:00 a.m.) by three (or four) soldiers who wanted whiskey in exchange for some coffee. He said he had given the men the whiskey, but the next day he found that the coffee had been confiscated and was being held in the Customs House; when he went to claim it, he was told he could not have it until he paid double duty and then only after the case was investigated. In his statement, Butshoffsky admitted receiving 75 pounds of the illicit coffee (apparently no one inquired about the other 125 pounds) and pointed to the three prisoners as the men to whom he had traded the whiskey.

The attempts by these men to question the whiskey dealer were ludicrous; the clever Butshoffsky had them beat by a country mile. The witnesses went back to Mexico; the prisoners were sent to Las Cruces to await trial. Ten days later, the court was duly convened.

The transcript (handwritten in the most exquisite script imaginable) of these depositions and the ensuing trial present an almost unbelievable picture. It should be required reading for the army’s judge advocate general and all civilian law schools. The ACLU would love it.

The formal charge was that White had “burglariously entered the Commissary, stealing 200 pounds of coffee from the United States Army, and transporting it into Mexico.” The prosecution divulged several interesting pieces of evidence:

1. Private Nutt kept the key to the commissary in the pocket of his “pantaloons” that hung on the head of his bed in the yard. He admitted that “someone could have taken the key” without his knowledge.

2. The commissary sergeant testified that “some” coffee was missing on the morning of September 11; the “200 pounds” was “deduced” by the sergeant by calculating the amount he “thought” he had dispensed on September 4. (No written records or accounts were produced to support this testimony.)
3. Army officials had demanded the return of the stolen coffee, but Butshoffsky offered to identify the miscreants only on condition that he could keep the coffee; the officials agreed. However, when asked for the names, Butshoffsky had said he did not know but would “ask around and find out.”

4. Although offered a pass to come onto the post to make his identification, Butshoffsky declined and sent a “small Mexican boy” who “knew the men.” (This identification was duly entered in evidence.)

5. It was Butshoffsky who had advised the army officials how the key had been obtained and the commissary entered.

The prosecution rested; White (“the accused”) was now invited to call his witnesses. His roommate, Dan Applegate, testified to White's whereabouts on September 8, 9 and 10. Sergeant John Hance testified that on September 10, White had gone to his room about 10:00 p.m. and later, around 1:00 A.M., had come looking for a candle. White asked both men if they had ever seen him drinking; both said no. White himself testified that, early in September when he had been on duty, he had found the commissary door unlocked and had reported it to the corporal of the guard. Two witnesses confirmed this.

The court then delivered what had to be—for James White—a devastating coup de grâce: He was ordered to appear the next day and present them with a written statement of his defense. In retrospect, one might think that White could have swallowed his pride long enough to admit he was semiliterate rather than face the consequences of a court martial, but it is possible that White, knowing himself to be innocent and his witnesses’ testimony strong, was actually naïve enough to believe that the verdict could not possibly rest exclusively on a piece of paper.

When the morning arrived, he respectfully told the court that he would stand on the defense as he had presented it. It was then November 1, 1864, three years to the day from his enlistment in Virginia City, the day he was to have become a civilian again. Instead, the court, having struck out the term “burglariously” for some odd (but undisclosed) reason, found him guilty.

Once more White waited, this time for a period of three weeks, for the court to sentence him. On November 19, he turned
twenty-seven; under the circumstances, the birthday probably remained uncelebrated. His sentence was droned out by a sergeant while White stood at attention before the presiding officers: “to be confined [at Fort Craig] at hard labor for one year; to wear a 24 pound ball attached to his left leg by a 3 foot chain; to forfeit all pay except the just dues of the sutler and laundress; and at the end of the sentence to be dishonorably discharged from the Army of the United States.”

On April 24, 1865, after five months of incarceration, General Order No. 25 spelled amnesty for all Union prisoners in confinement. White returned to Franklin and received the hundred-dollar bonus promised in Virginia City, some traveling money, and more importantly, an honorable discharge.

Neither Mexico to the south nor the defeated Confederacy to the east held any interest for him; California would remind him of his army service, and Texas of its humiliations. He bought a horse and saddle and followed the Rio Grande north to Colorado.