

History on Trial

Episode 17

The Questionable Confession: *Ziang Sung Wan v. United States*

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Before we begin today's episode, a note on names:

Today's episode focuses on a group of Chinese men, all of whom came to the United States from Shanghai. I will be using the Shanghainese order for most names, with the surnames coming first, but the trial's case name uses English naming conventions, with the surname of the defendant following the first name. I've worked with a Shanghainese speaker to get the pronunciation of names correct, but I apologize in advance for any errors in pronunciation, which are mine alone!

With that, let's get started.

PROLOGUE

Dr. Li Kang was getting very worried about the occupants of 2023 Kalorama Road. A 10-room row house in Washington, DC, 2023 was home to the Chinese Educational Mission. Three men – Dr. Theodore Wong, Hsie Changxi, and Wu Binxin – staffed the mission. Dr. Li was used to seeing the three of them coming in and out of the mission. But he hadn't seen any of them in three days, and neither had anyone else. It was now Friday, January 31st, 1919, and Li was growing increasingly worried. He lived across the street from the mission, and over the past three days he had seen mail pile up on the stone steps of the house. Not just mail, but milk bottles and newspapers and laundry too. Why was no one picking up the mission's deliveries? Li knew Wong and Hsie well and he was sure they would have told him if they were leaving town.¹

By Friday evening, Li couldn't contain his anxiety. He walked across the street and rang the bell. No one answered. He looked into the windows of the first-floor living room, but could not see inside. Then he noticed that one of the windows was open, just a crack. Li considered his options. Breaking in seemed extreme, but something was not right here. He pushed up the bottom pane and wriggled inside.²

It was pitch black in the mission. Groping in the darkness, Li made his way into the front hall. Heart pounding, Li flipped the wall switch and the hall flooded with light.

¹ Scott D. Seligman, *The Third Degree: The Triple Murder that Shook Washington and Changed American Criminal Justice* (Lincoln, Nebraska: Potomac Books, 2018), 20-21.

² Seligman, 21.

Suddenly, Li could see everything – the dark wood paneling, the patterned rug, and, lying atop the rug, a man's body.³

Li ran to get help. Soon, the mission was swarming with officers – and what they found inside was horrifying.

The body in the front hall belonged to 43-year-old Dr. Theodore Wong. Wong had been beaten about the head and shot twice. Furniture strewn about the first floor pointed towards a struggle. A blood trail led the officers from the front hall into the basement. In the small basement kitchen, police found a bloody handkerchief and a revolver, which Dr. Li identified as belonging to Wu Bingxin, the mission's 22 year old secretary. In the nearby furnace room, police found Wu – dead. He had been shot once in the head and once in the heart. Wu lay with his head touching the head of 32 year old Hsie Changxi, the mission's treasurer. Hsie too had been shot in the head.⁴

It was a horrific and baffling crime. Who would have wanted to kill these men? Their work was not controversial – they helped supervise and support Chinese students studying in the United States. They were well-regarded members of their community.

The police wanted to solve this case quickly. Fortunately, Dr. Li was able to provide them with a lead.⁵

Two days earlier, Wednesday, January 29th, Li had visited the mission. When he knocked, no one answered. He tried again. Finally a man opened the door, but only a crack. He did not invite Li in. This man was 23 year-old Wan Ziang Sung. Ziang Sung – who knew both Wong and Wu – had been staying at the mission earlier in the week. But Li thought Ziang Sung had returned to New York, where he lived, on Monday. What was he still doing at the mission on Wednesday? Ziang Sung told Li that no one else was in. Li shrugged and decided to come back later.⁶

Once Li told the police about this encounter, the police became curious about Ziang Sung. Detectives were dispatched to New York to question him. And when police learned that a Chinese man had tried to pass a forged check purported to be from the mission the morning after the murder, they thought they knew what had happened. Ziang Sung was struggling financially. He must have tried to steal money from the mission – when his actions were discovered, he had killed the mission staff to cover up

³ Seligman, 21-22.

⁴ Seligman, 21-23.

⁵ Seligman, 24.

⁶ Seligman, 17.

the crime. The police brought Ziang Sung back to Washington, DC, and questioned him. Eventually, he confessed. It seemed like an open and shut case.

But at Ziang Sung's trial, his defense would claim that the police had coerced his confession. They alleged that the police had employed questionable tactics – denying Ziang Sung food and sleep, among other things – to get him to break. This wasn't the first high-profile case of a coerced confession – for years, the public had been concerned about the lengths the police would go to secure a conviction. At Ziang Sung's trial, the question of what made an acceptable confession would come under scrutiny – and change the nature of police work, and the rights of suspects, forever.

Welcome to History on Trial. I'm your host, Mira Hayward. This week, Ziang Sung Wan v. United States.

ACT I

In 1909, the Boxer Indemnity Scholarship Program funded its first group of students. The program – created via a complicated financial negotiation between the Chinese and U.S. governments in the wake of the Boxer Rebellion – sponsored Chinese students to study in America. More than 1,200 Chinese students would take part in the program over its 26 year existence.⁷

In 1911, the Chinese Educational Mission was founded to help administer the scholarship, and to support and supervise the program's students.⁸ Dr. Theodore Wong was selected as the Mission's first director. He was a natural choice: a member of a prominent Shanghai family, Wong had himself studied in America, graduating from the University of Virginia in 1896.⁹

Hsie Changxi soon came on as the organization's treasurer. Thirteen years younger than Wong, Hsie had experience with both the Chinese foreign ministry and with university administration.¹⁰

Hsie and Wong moved to Washington, D.C. in 1911 to set up the mission operations. Four years later, Wong returned to China to reunite with his family. He had had to leave his wife Julia and their seven children in Shanghai when he moved to the United States,

⁷ Seligman, 7 and "The Boxer Indemnity Scholarship Program," *China Comes to MIT*, <https://chinacomestomit.org/new-page-2>.

⁸ Seligman, 1.

⁹ Seligman, 1, 4, 7-9.

¹⁰ Seligman, 1, 9.

and couldn't wait to see them again. He spent a year in China, but soon, duty called, and he returned to America in 1916.¹¹

Wong didn't travel alone. Accompanying Wong on the voyage was Wu Bingxin, a 17 year old scholarship student. Wu, who spoke little English, came from a powerful family with government connections. While studying at George Washington University, Wu would also be serving as the mission's secretary.¹²

On the journey across the Pacific, Wu shared a stateroom with 20 year old Wan Ziang Sung. Wong had known Ziang Sung since he was a child; both families were part of the same Episcopal church. Ziang Sung, like Wu, would be studying in the United States, but he was not a scholarship recipient. His wealthy mother was funding his education, as part of a final attempt to get Ziang Sung to straighten his life out. Ziang Sung's father had died young, leaving his mother with a large fortune and four children who she struggled to discipline. Ziang Sung had grown up privileged, spoiled, and aimless. Hoping that a change of scenery would inspire Ziang Sung to get his act together, his mother suggested that he go study in America. She asked her friend Theodore Wong to keep an eye on her son.¹³

Upon arrival in the US in the spring of 1916, Wong and Wu headed to Washington, DC. Ziang Sung did not join them; he was going to Ohio to attend Ohio Northern University. His younger brother, Tsong Ing, was also studying in Ohio.¹⁴ Within a year, Ziang Sung had completed his bachelor of arts degree, thanks in part to transfer credits from his school in Shanghai.¹⁵ In search of more excitement, he went east, landing in New York City. Tsong Ing soon joined him. The brothers rented a furnished room in Morningside Heights and set about enjoying city life. Ziang Sung does not seem to have picked up more responsible habits during his year in college; he soon ran through the money his mother sent him. He tried to run a movie theater (it quickly failed), and then took a job as a valet. But that job didn't last long either; at some point in 1918, Ziang Sung contracted the Spanish flu. Between 1918 and 1919, the flu killed millions of people around the world. Ziang Sung did not die, but he was profoundly ill, and the after effects of the flu would linger for months, leaving him weak and sickly.¹⁶

By January 1919, Ziang Sung was in a very dark place. He had only \$41 in his checking account and no job to replenish the coffers with. He was sick and frequently confined to bed. Stressed, he drank heavily and argued with his brother. Ziang Sung needed a

¹¹ Seligman, 9.

¹² Seligman, 4.

¹³ Seligman, 4-5.

¹⁴ Van had romanized his surname in a different style than his elder brother.

¹⁵ Seligman, 12.

¹⁶ Seligman, 12-14.

change. Inspiration arrived in the form of a telegram. Wu Bingxin, his shipmate on the voyage over, and the Chinese Education Mission's secretary, invited him to visit DC. Wu also sent him \$50 dollars.¹⁷

In late January, Ziang Sung decided to take Wu up on his offer. On January 22nd, he took a train to Washington. By that evening, he was at the Chinese Educational Mission's house in Kalorama, where the mission's staff both lived and worked. Ziang Sung was given the guestroom on the first floor.¹⁸

But the Washington trip was not the peaceful respite that Ziang Sung had hoped for. The mission staff were busy with work and did not have the energy to tend to a sick houseguest. Wu helped care for Ziang Sung at nights, but Ziang Sung came to feel like a burden. And Dr. Wong's paternalistic presence probably chafed too. After five days, Ziang Sung decided to leave.¹⁹

He did not head back to New York immediately though. Instead, he took a room at the Harris Hotel, near the train station. He telegraphed his brother, asking Tsong In to come take care of him. Tsong In hurried south, arriving in the middle of the night on January 28th. He found his brother in rough shape; in addition to the fatigue from the flu, he was now suffering severe bowel pain.²⁰

But Ziang Sung also had some errands to run. On the evening of January 29th, he went back to mission - it was during this visit that Dr. Li Kang knocked on the door, and Ziang Sung told him that everyone else was out. This turned out to be true - the mission's staff were all attending dinners celebrating the Chinese New Year that evening.²¹

The next morning, Thursday, January 30th, Ziang Sung and Tsong In visited Riggs National Bank. Ziang Sung stayed in the taxi while Tsong In went in and attempted to deposit a \$5,000 check. The check, made out from the account of the Chinese Educational Mission, was only addressed to, quote "bearer," not to any specific recipient. The teller thought this was suspicious. He pulled up a previous check from the mission and compared Wong's signatures on each document. They didn't match. The teller alerted an assistant cashier, who attempted to reach the mission by phone. No one answered. Eventually Tsong In was told to return with Wong.²²

¹⁷ Seligman, 14-15.

¹⁸ Seligman, 15.

¹⁹ Seligman, 15-16.

²⁰ Seligman, 16.

²¹ Seligman, 1-2, 17.

²² Seligman, 18-19.

Tsong In did not do so; instead, he and Ziang Sun went to Union Station and boarded a train for New York.²³

The next evening, Li Kang discovered the bodies in the mission. There was no sign of forced entry or robbery, so the police suspected a more personal motive.²⁴

After Li told police about his strange interaction with Ziang Sun on the 29th, the police decided to investigate further. Washington Chief of Police Major Raymond Pullman sent two Detective Sergeants, Guy Burlingame and Edward Kelley, to New York. The detectives arrived at Ziang Sung and Tsong In's apartment at 7:30am on February 1st.²⁵

The Wan brothers and the detectives would give very different accounts of the interaction that followed. The detectives claimed that Ziang Sun expressed no surprise at the news of the deaths. He asked many questions, but seemed calm. He told them he had left DC on January 27th.²⁶

In the brothers' telling, things were much less amicable. They said that the detectives had entered their room with guns drawn and begun tearing the room apart, searching for a gun. Ziang Sun denied ever saying that he returned on the 27th.²⁷

Both versions of this encounter end in similar ways though, with Ziang Sung agreeing to accompany the detectives to DC to help answer questions. Ziang Sung pulled together the toiletries and clothes necessary for a short trip. But this trip would not be short – soon, Ziang Sung would discover, the police did not intend to let him go home.²⁸

ACT II

When the train carrying Ziang Sun and the detectives arrived in Washington, dozens of reporters and photographers lined up to meet them. Anticipating this, Chief Pullman had the group exit off the rear of a train. And then, instead of taking Ziang Sung to the police station, where more reporters were waiting, Pullman had him taken to the Board of Police Surgeons health clinic. At the clinic, Pullman himself began the questioning, assisted by Chief of Detectives Clifford Grant. Ziang Sung did not admit to anything.²⁹

²³ Seligman, 19.

²⁴ Seligman, 27.

²⁵ Seligman, 24.

²⁶ Seligman, 25-26.

²⁷ Seligman, 25-26.

²⁸ Seligman, 27.

²⁹ Seligman, 29-30.

Ziang Sung was next asked to appear in front of a group of employees from Riggs National Bank. Police hoped that the employees would ID Ziang Sung as the man who had tried to deposit the forged check. But the employees said that he was not the man they'd seen.³⁰

Tired and feeling ill, Ziang Sung asked to leave. But the police – who had not formally arrested Ziang Sung at this point – would not let him go. Instead, they took him to the Dewey Hotel.³¹

Why not to the police station? As historian Scott Seligman says in his book, *The Third Degree*, the police quote, “intended to keep him incommunicado for as long as they interrogated him; this way no one—not reporters nor voyeurs but also not any of his friends nor any attorneys—could find out where he was.”³²

While Ziang Sung sat cloistered in the hotel, the Washington police were returning to New York. One of the bank employees had mentioned that the man who brought the check looked younger than Ziang Sung, so the police were working on the theory that it had been twenty-year-old Tsong In who visited the bank. Early on Monday morning, Detective Kelly showed up at Tsong In's door.³³

To get Tsong In to accompany him back to Washington – because the police had no grounds to formally arrest him at this point – Kelly lied, telling Tsong In that Ziang Sung was ill and asking for his brother. Tsong In quickly agreed to return with Kelly. But when the pair arrived in Washington, Tsong In was not taken to Ziang Sung – instead, he was taken to the police clinic, where officers interrogated him and accused him of murder. They questioned him all night, without giving him any food. Early the next morning, the police checked Tsong In into the Dewey Hotel. He did not know that his brother was staying there as well. While Tsong In finally got some sleep, the police took his photo around to the bank. All the employees confirmed that this was indeed the man who had tried to cash the forged check.³⁴

Police were now certain they had their men – they believed that Ziang Sung had forged the check and then killed the mission staff when they discovered his crime. But their case was circumstantial. To make it airtight, they needed a confession. Over the next five days, the police questioned Ziang Sung and Tsong In incessantly, even interrupting their sleep to get more questions in.³⁵

³⁰ Seligman, 31.

³¹ Seligman, 31-32.

³² Seligman, 32.

³³ Seligman, 35.

³⁴ Seligman, 36-37.

³⁵ Seligman, 41.

Per the brothers' later accounts, the police did more than just question them. They also insulted them, using racist slurs and abusive language. They pinched and pushed the men. They refused to let them see each other. They did not allow Ziang Sung, who was now very ill, to get adequate rest.³⁶

After five days of this, Tsong In cracked. He admitted that he had tried to cash the check. When detectives told Ziang Sung what his brother had said, he was shocked and angry. The police thought that he might just be close to breaking too. His little brother was his weak spot - Ziang Sung wanted to protect him. Maybe if detectives allowed them to see each other, Ziang Sung would open up.³⁷

The next day, the police took the brothers to the murder scene. When he saw his younger brother, Ziang Sung excitedly shook Tsong In's hand and asked after his well being.³⁸ But this was not to be a long reunion - soon, the questioning started again. Pullman implied to Ziang Sung that Tsong In was about to be arrested for the crime – unless Ziang Sung did something to stop it. “You know what you did,” Tsong In remembered Chief Pullman telling his brother. “[...]Why don't you say something and let your brother go? Your little brother has a good future; we just want you to say something and let him go out.”³⁹

When this emotional pressure did not work, the detectives increased the prisoners' discomfort. They denied them trips to the bathroom. They gave them no food. When Ziang Sung, increasingly ill, slumped in his chair, Tsong In handed him a cushion. Detective Kelly took it away, saying “Don't think you are home. You are in our power. You have got to do what we say.”⁴⁰

The questioning continued all night. By 5:00am, even the detectives were exhausted and Ziang Sung was on the verge of collapse – the detectives had to carry him out. Both brothers were taken to the Tenth Precinct Station House. There, Ziang Sung was finally allowed to sleep. When he woke up that evening, the questioning began again. Inspector Grant told Ziang Sung, quote, “If you are guilty and your brother is innocent, now is the time to tell it.”⁴¹

After nearly a week of mental and physical suffering, Ziang Sung could take it no more. He told detectives that he had been there when the killings happened. But it had not

³⁶ Seligman, 41-43.

³⁷ Seligman, 44, 46.

³⁸ Seligman, 45.

³⁹ Seligman, 67.

⁴⁰ Seligman, 47.

⁴¹ Seligman, 48-49.

been him who shot the mission's staff – Wu Bingxin had killed Theodore Wong and Hsie Changxi, he said, and then a businessman named C.H. Chen killed Wu.⁴²

Ziang Sung, too tired to speak more, stopped there. He told officers he would tell them more the next day if they let him sleep.⁴³

The next morning, Ziang Sung laid out what happened. He and Wu Bingxin had plotted to forge a check from the mission. But Dr. Wong had discovered their plan, and was going to alert the police. Wu told Ziang Sung to come over to the mission on the evening of the 29th to figure out what to do. But at the mission, Wu had lost his head. He had shot Wong and Hsie. Ziang Sung had been horrified and furious. So he – not a businessman named Chen, as he had claimed the night before - had shot Wu.⁴⁴

Ziang Sung said his brother had no idea about any of it. “My brother is absolutely innocent,” he told detectives. “He had no part in the killing. He knew nothing of it. He was only my tool in attempting to pass the forged check.”⁴⁵ When the bank had not accepted the check, Ziang Sung had abandoned the plan, and headed for New York – throwing away the forged check in the train bathroom.⁴⁶

Ziang Sung was arrested for murder. The police did not arrest Tsong In immediately, but kept him in jail. The two brothers were allowed to share a cell, and Tsong In tended to his ailing older brother. Ziang Sung signed a typed statement of his confession. He told Inspector Grant, “I’m glad this is off my mind. Dr. Wong was my friend and my mother in Shanghai had entrusted him to care for me in this country. I never wanted him killed, so I killed Wu for what he had done. I am glad it is all over. You now have the whole truth. I am not going to fight the case you built against me. I want no lawyer. I know what I have done, and I will ‘take my medicine,’ as you Americans say.”⁴⁷

But just one day later, Ziang Sung changed his mind. Now, he wanted to fight. What had happened to cause this change? The coroner's inquest, which took place on February 10th and 11th. The jury there concluded that both Ziang Sung *and* Tsong In were responsible for the murders.⁴⁸ Ziang Sung was horrified. “I must have a lawyer now,” he said, “because they do not believe what I tell them. I have told them the truth that my

⁴² Seligman, 49-50.

⁴³ Seligman, 50.

⁴⁴ Seligman, 50-53.

⁴⁵ Seligman, 53.

⁴⁶ Seligman, 53.

⁴⁷ Seligman, 53-55.

⁴⁸ Seligman, 56.

brother might not suffer. Now they are going to punish him, too. I must make them understand that I am the only man living who is to blame.”⁴⁹

Before, Ziang Sung would have said anything to protect his brother – or to get some sleep. But now it seemed that his eyes were open to the dangers in front of him. And these dangers were very real. If Ziang Sung was found guilty of first-degree murder, he would be sentenced to death.

ACT III

Shortly after the coroner’s inquest, the brothers were transferred to the District jail. An outdated, dilapidated facility, the jail did not look much different than it had when Charles Guiteau had stayed there forty years earlier. And the gallows from which Guiteau had been hanged – spoiler alert for episode 4 of *History on Trial* – still stood in the courtyard, an ominous reminder of what Ziang Sung was up against.⁵⁰

He would have many days to watch the gallows. It took more than seven months for the grand jury to return indictments in the case. Though John Laskey, the United States Attorney for DC, had publicly expressed confidence in the case, he was actually very concerned. Laskey thought that Ziang Sun’s confession – which the prisoner had now taken back – might very well be thrown out at trial. Laskey also wondered whether the police had been too hasty to narrow in on one suspect, ignoring other possible leads – leads that could introduce reasonable doubt at trial.⁵¹

Still, Laskey managed to convince a grand jury. In late September, the grand jury handed down indictments: three for first degree murder for Ziang Sung Wan, and one for passing a forged check for Tsong Ing Van.⁵² Ziang Sung must have been relieved that his brother was no longer implicated in the murder. But he had other concerns - his medical condition was worsening, and he had to spend time in the jail’s Red Cross room.⁵³

On October 7th, 1919, in the Washington DC Supreme Court, Ziang Sung and Tsong Ing pled not guilty. Judge Ashley M. Gould granted Tsong Ing bail and he headed back to New York. Ziang Sung returned to the District jail to await trial.⁵⁴

⁴⁹ Seligman, 56.

⁵⁰ Seligman, 57.

⁵¹ Seligman, 58-59.

⁵² Seligman, 59.

⁵³ Seligman, 58.

⁵⁴ Seligman, 39-60.

Outside of the jail, his lawyers – James O’Shea, John Sacks, and Charles Fahy– were working feverishly. How exactly these lawyers came to be hired – or who was paying them – is unknown – but they would fight tirelessly for their client.⁵⁵

The central issue of Ziang Sung’s trial was his confession. Was it admissible or not? Ziang Sung’s lawyers would argue that it was not – that it had been obtained through coercion and pressure. O’Shea introduced this idea as early as jury selection, asking jurors, in Scott Seligman’s words, quote, “if they would afford a confession obtained after eight days’ grilling of a sick prisoner denied communication with his friends as much consideration as one given voluntarily under different circumstances.”⁵⁶

The prosecution also thought carefully about how to approach the matter of the confession. US Attorney Laskey had decided to prosecute Ziang Sung only for the murder of Wu Bingxin, since this was the only murder he had directly confessed to.⁵⁷ But in opening statements on December 15th, Assistant US Attorney Bolitha J. Laws – yes, Laws, great name for a lawyer – tried to avoid the confession entirely – aware that it might be thrown out. Instead, Laws focused on Ziang Sung’s precarious finances, his motive to forge a check from the mission.⁵⁸

The prosecution’s witnesses helped solidify this motive. On the first day, Laws introduced a number of acquaintances of Ziang Sung’s from New York, all of whom testified to his financial struggles and his long-term ill health, which made it impossible for him to work. Motive? Check.⁵⁹

Next, Dr. Li Kang testified to having seen Ziang Sung at the mission on the night of the murders.⁶⁰ Opportunity? Check.

With motive and opportunity established, Laws turned to the police evidence. Though he had shied away from addressing the confession earlier in the trial, the prosecutor now confronted it head on. He introduced receipts from the Dewey Hotel that showed that Ziang Sung had been fed. He called Inspector Grant and Detective Burlingame to the stand, both of whom denied any abuse or pressure.⁶¹ When asked if Ziang Sung’s illness might have contributed to his confession, Burlingame said that Ziang Sung was quote, “sick in the head more than in the body.”⁶²

⁵⁵ Seligman, 59.

⁵⁶ Seligman, 61.

⁵⁷ Seligman, 60.

⁵⁸ Seligman, 62.

⁵⁹ Seligman, 63.

⁶⁰ Seligman, 63.

⁶¹ Seligman, 64.

⁶² Seligman, 63.

But on cross examination, James O’Shea revealed some cracks in the detectives’ stories. O’Shea got Burlingame to admit that Ziang Sung had indeed been questioned late at night – and that when he had finally confessed, he had been lying in bed, sick. Inspector Grant acknowledged that Ziang Sung had not been allowed to see his brother – or any non-police or hotel staff for that matter – for five days.⁶³

On December 29th, Judge Gould ruled on the confession. “The limits to which the police may go,” Gould said, “depends [sic] on the circumstances of each case. They have a right to use all reasonable methods in getting facts in a case.”⁶⁴ He told the jury it was up to them to decide whether the police methods were reasonable in this case. The confession would be admitted. It was a big win for the prosecution.

On December 31st, Ziang Sung’s confession was read aloud. On that climactic note, the prosecution rested.⁶⁵

Defense lawyer James O’Shea began his case with an opening statement. Despite Gould’s ruling, O’Shea still believed that getting the jurors to question the validity of the confession was the best path forward. He told jurors that Ziang Sung had been, quote “cursed, pushed and struck” by the police, and that, quote, “The defendant was in ill health and his condition became so acute that he would have confessed to anything should it result in his being left alone by the detectives.”⁶⁶

To reinforce this point, O’Shea called Tsong In to the stand. Tsong In painted a harrowing portrait of the interrogation. He described the police using racial slurs, threatening them with violence, and telling Ziang Sung to confess in order to free his brother. Tsong In emotionally admitted that he, too, in desperation, had asked his brother to confess, imploring Ziang Sung, quote, “Just say yes! They send us back to the hotel and give us food and then don’t send us to dungeon.”⁶⁷

In other ways, though, Tsong In was a less than convincing witness. He now denied that it was Ziang Sung who had given him the forged check, instead saying that a stranger asked him to deposit it. It was a hard story to swallow and raised questions about Tsong In’s credibility.⁶⁸

⁶³ Seligman, 63-64.

⁶⁴ Seligman, 64.

⁶⁵ Seligman, 66.

⁶⁶ Seligman, 66.

⁶⁷ Seligman, 67-68.

⁶⁸ Seligman, 66.

But Tsong In's testimony about the interrogation was corroborated by his brother. Ziang Sung described the stress and exhaustion of his week-long ordeal. He explained that he would have done anything to make the questioning stop. By the time he had signed the typed out confession, Ziang Sung said, he had been so ill he could not get out of bed.⁶⁹

Judge Gould seemed skeptical of these claims, asking Ziang Sung: "Nobody held a gun over you?...and nobody threatened to kill you?" Ziang Sung replied "This is worse than killing. If they kill me, I don't mind." Still unconvinced, Gould asked if he really thought signing a confession – which might lead to him receiving the death penalty – was worse than answering questions. "[They] wanted me to confess and to sign," Ziang Sung explained, "and my idea is this: I want them to leave me alone and let my brother nurse me and let me get well. I don't want to argue with them at the same time."⁷⁰

Ziang Sung's claims were backed up by the prosecution's strongest witness, Dr. James Gannon, the chief medical officer at the District jail. Gannon had seen Ziang Sung shortly after his arrival at the jail and had been shocked at his condition. He diagnosed Ziang Sung with spastic colitis, which he testified would result in almost constant pain. He observed that Ziang Sung was emaciated and exhausted. Gannon had been so concerned about the prisoner's health that he had confined Ziang Sung to a bed in the jail's Red Cross room for more than a month.⁷¹

Once again, Judge Gould had questions for this witness. "Are you prepared to say that [his condition] had any effect on his mind?" Gould asked. "Oh yes, I am," Gannon replied. "What do you say; he was of sound or unsound mind?" "[...]Insofar [as] he was unable to make an important decision," Gannon said, "he was of unsound mind." Judge Gould was highly skeptical. "With spastic colitis," he asked, "if he was accused of a crime he would simply sign a paper and say, 'You hang me'? That is your opinion as a medical man?" Gannon did not back down: "I say, if he was as sick as that and in as great pain as that, he would do anything to have the torture stopped."⁷²

Would Gannon's testimony convince the jury that Ziang Sung's confession had not been made voluntarily? The defense certainly hoped so. James O'Shea stressed the terrible pressure Ziang Sung had been under during his closing arguments. He told jurors that the police's conduct was not in line with American values, quote: "If they treated this boy as the testimony indicates, it is high time an American jury put its stamp of disapproval on the methods of the police."⁷³

⁶⁹ Seligman, 69.

⁷⁰ Seligman, 70.

⁷¹ Seligman, 70.

⁷² Seligman, 71.

⁷³ Seligman, 71.

United States Attorney John Laskey vehemently disagreed. In his closing argument for the prosecution, Laskey shot back, quote: “The police would have been derelict in their duty if they had not interrogated [him] at great length.” The jury should affirm the police’s work, or the criminal justice system would feel the consequences, Laskey continued. Quote, “If the police are not to be allowed to question persons suspected of crime, particularly those who have been trapped in conflicting statements and lies, you might as well close up the courthouse.”⁷⁴

Who would the jurors agree with? On January 9th, Judge Gould instructed the jury and dismissed them to deliberate. They were not gone long: only half an hour after stepping out, the jury returned with a verdict.⁷⁵

Ziang Sung had been so sure that he would be acquitted that he had packed his suitcase before departing the jail that morning.⁷⁶ He now sat waiting for the jury’s announcement. The court clerk rose and spoke:

On the count of first degree murder for the killing of Wu Bingxin, the jury had found the defendant, Wan Ziang Sung, GUILTY.

ACT IV

Ziang Sung crumpled in his chair. He began to sob. His attorneys and the bailiff led him out of the courtroom. James O’Shea told him that they would petition for a new trial. In May, Judge Gould dismissed this petition, saying that the conviction would have come even without the confession. Gould even praised the police for their, quote, “unusual detective skill.”⁷⁷ He set Ziang Sung’s sentencing date for a week hence.⁷⁸

There was no doubt what the sentence would be – first degree murderers were automatically sentenced to death in Washington at this time.⁷⁹ On May 14th, 1920, Judge Gould pronounced that Wan Ziang Sung would be hanged on December 1st. The prisoner collapsed.⁸⁰

⁷⁴ Seligman, 72.

⁷⁵ Seligman, 72.

⁷⁶ Seligman, 72.

⁷⁷ Seligman, 74.

⁷⁸ Seligman, 73.

⁷⁹ Death sentences were mandatory in the District of Columbia until 1962. “Legislative Summary: District of Columbia,” John F. Kennedy Presidential Library, <https://web.archive.org/web/20121006101131/http://www.jfklibrary.org/Research/Ready-Reference/Legislative-Summary-Main-Page/Legislative-Summary/District-of-Columbia.aspx>.

⁸⁰ Seligman, 74.

Once again, James O’Shea reassured Ziang Sung, telling him that they would appeal. And indeed, they did appeal, though due to a number of scheduling difficulties, illnesses, and deaths – including that of Judge Gould, who died on May 20th, 1921, of a heart attack – it would take more than 3 years for Ziang Sung’s appeal to be heard by the DC Court of Appeals. In the meantime, his execution had been stayed multiple times – almost always at the last moment.⁸¹

The news out of the appeals court was not good. On May 7th, 1923, Judge Josiah A. Van Orsdel ruled that the confession was admissible and that the verdict and sentence were correct.⁸²

James O’Shea told Ziang Sung that they had one last legal resort: appealing to the Supreme Court. It was a long shot; the Court only heard a small number of cases every year. But O’Shea thought that the Court might be interested in Ziang Sung’s story. The debate over just how far police could go to get confessions had intensified since the last time the court had ruled on the admissibility of confessions in 1897. The so-called “third degree” – the use by police of force, coercion, and threat– was increasingly unpopular, but there was no clear legal guidance on how to consider confessions obtained using the third degree.⁸³

O’Shea thought the court might want to weigh in. But he didn’t know if he was the right lawyer for the job; though he was admitted to the Supreme Court bar, he didn’t have much experience arguing in the highest court.⁸⁴ Fortunately for O’Shea, and for Ziang Sung, Ziang Sung’s case had attracted some high-profile, well-connected figures, who helped bring his story to the attention of several prominent lawyers, including John W. Davis, a former congressman, ambassador, and solicitor general, who had argued more than seventy cases in front of the Supreme Court.⁸⁵ Davis and O’Shea were joined on Ziang Sung’s appeal by William Cullen Dennis, a former State Department lawyer, as well as O’Shea’s associates Charles Fahy and Frederic McKenney. In July, 1923, the team submitted their appeal to the Court.⁸⁶

Three months later, to their delight, the Supreme Court agreed to hear their case. Due to even *more* scheduling difficulties and missed deadlines, oral arguments did not commence for another six months.⁸⁷ In April, 1924, Frederic McKenney and William

⁸¹ Seligman, 74-78.

⁸² Seligman, 81.

⁸³ Seligman, 79, 81-89.

⁸⁴ Seligman, 91.

⁸⁵ Seligman, 76, 91-92. Wan’s advocates included Hugh O’Donnell, a *New York Times* business manager who Wan had once worked for as a valet, and the Reverend Peter J. O’Callaghan, a politically active Catholic priest.

⁸⁶ Seligman, 92-94.

⁸⁷ Seligman, 96-97.

Dennis presented oral arguments on Ziang Sung's behalf. John Laskey's replacement, United States Attorney Peyton Gordon, argued on behalf of the United States.⁸⁸

In his cell on the District jail's "gallows lane," Ziang Sung could only wait and hope. The medical care he had received while in jail had resolved his colitis, and he had grown healthier and plumper. He was known as a model prisoner. But the stress of imminent death weighed on him.⁸⁹

On October 13, 1924, almost a year after the Supreme Court first agreed to hear the case, the Court published its opinion in *Ziang Sung Wan v. United States*. The unanimous decision was authored by Justice Louis D. Brandeis. Brandeis walked through the facts of Ziang Sung's case, explaining the tactics the police had employed against him and Tsong In. Then he weighed in on the admissibility of the confession. "The court of appeals," Brandeis wrote, "appears to have held the prisoner's statements admissible on the ground that a confession made by one competent to act is to be deemed voluntary as a matter of law if it was not induced by a promise or a threat, and that here...these statements were not so induced." But, Brandeis continued, "the requisite of voluntariness is not satisfied by establishing merely that the confession was not induced by a promise or a threat." Any type of compulsion, Brandeis concluded, rendered a confession involuntary, and in this case, quote, "The undisputed facts showed that compulsion was applied." Ultimately, Brandeis wrote, "A confession is voluntary in law if, and only if, it was, in fact, voluntarily made."⁹⁰

Brandeis's opinion was met with popular acclaim. "The court has plainly and bluntly decided that torture has no place in American legal procedure and that confession thus compelled and extorted may not be admitted," wrote the *Pittsburgh Press*.⁹¹ "It is time the police realized that a man is presumed innocent until proven guilty," opined the *New York World*, "and that it is up to them, not the accused himself, to do the proving."⁹² Said police, of course, were not so pleased. The Washington police denied that their officers had done anything improper in their interrogation of Ziang Sung. Commissioner James Oyster did agree to an investigation, but it wrapped in only five days and, surprise surprise, found no evidence of wrongdoing on the police's part.⁹³

⁸⁸ Seligman, 97.

⁸⁹ Seligman, 75, 105.

⁹⁰ *Ziang Sung Wan v. United States*, 266 U.S. 1 (1924), <https://supreme.justia.com/cases/federal/us/266/1/>

⁹¹ Seligman, 105.

⁹² Seligman, 106.

⁹³ Seligman, 105.

In the jail, prisoners rejoiced – and not just Ziang Sung. Another inmate on “gallows lane,” Eddie Perrygo, who had confessed after being kept awake for long stretches of time, was granted a new trial as a result of the ruling.⁹⁴

Ziang Sung would also be granted a new trial - and another stay of execution, his thirteenth.⁹⁵ Many people wondered whether the government would even pursue a new trial. But in November, the Department of Justice decided to move forward with re-prosecuting Ziang Sung – and, if they secured a conviction in his case, with the prosecution of his brother Tsong In, who had been out on bail for the past five years.⁹⁶

However, as with everything in Ziang Sung’s case, the new trial moved slowly. In the intervening years, many of the original witnesses had died or moved – some of them, like key prosecution witness Dr. Li Kang, had returned to China. Locating these witnesses and bringing them back to DC would take time. Finally, after more than a year of preparations, Ziang Sung’s second trial was scheduled for January 1926.⁹⁷

Ziang Sung was entering this case with a new legal team. For unknown reasons, he had soured on James O’Shea, who had fought so ferociously for his cause, and fired O’Shea in late 1924.⁹⁸ O’Shea had been replaced by Wilton Lambert, a prominent Washington lawyer who had been convinced to take the case by an anti-death penalty advocate. Lambert in turn recruited A. Owsley Stanley, a former US senator from Kentucky and a brilliant public speaker. They would be joined by Lambert’s law partner, Rudolph Yeatman, and his son, Arthur Lambert, as well as one member of Ziang Sung’s original legal team, Charles Fahy.⁹⁹

On January 11th, 1926 - – six years and two days after the initial verdict in Ziang Sung’s case – court was called to order in the courtroom of Washington Supreme Court Judge Wendell P. Stafford. In addition to new defense lawyers and a new judge, there were new prosecutors: United States Attorney Peyton Gordon and Assistant United States Attorney George D. Horning, Jr.¹⁰⁰

There were also noticeable absences. Both Police Chief Pullman and Inspector Grant, who had been so involved in the interrogation of Ziang Sung, had died.¹⁰¹

⁹⁴ Seligman, 104.

⁹⁵ Seligman, 105.

⁹⁶ Seligman, 107, 111.

⁹⁷ Seligman, 111-113.

⁹⁸ Seligman, 110.

⁹⁹ Seligman, 111-112.

¹⁰⁰ Seligman, 112.

¹⁰¹ Seligman, 113.

But for all these changes, much remained the same between Ziang Sung's first and second trials.¹⁰² For that reason, I'm not going to give you a play-by-play – you can just go back and listen to the trial section again, if you're really bored. The only substantive change, of course, was the fact that his confession was no longer admissible.

Would this difference be enough to save Ziang Sung? Or, as Judge Gould had opined years before, was his conviction inevitable even without the confession?

On February 8th, the jury began its deliberations. Unlike Ziang Sung's first jury, which had returned in less than 30 minutes, these deliberations dragged on. More than 24 hours later, the jury told Judge Stafford that they were hopelessly deadlocked. Stafford discharged them. It was later revealed that this jury had voted 10-2 for acquittal.¹⁰³

Once again, Ziang Sung had believed that freedom was imminent, and had packed his suitcase in anticipation of release. But he took the bad news calmly, telling reporters that he just hoped for a speedy retrial.¹⁰⁴

The retrial took place two months later, beginning on April 12th, 1926. All the players stayed the same, except for Judge Stafford, who was replaced by Judge Adolph A. Hoehling Jr. Once more, feel free to listen to the trial section again, if you'd like to experience this third trial in all its glory and/or don't value your own time.¹⁰⁵

On May 12th, Ziang Sung's third jury was dismissed to deliberate. Again, they took their time – but by 10pm on May 13th, the foreman reported to Judge Hoehling, somewhat melodramatically, that they were, quote, “utterly and everlastingly in disagreement.”¹⁰⁶ Hoehling dismissed them. They had voted 9-3 in favor of acquittal.¹⁰⁷

Immediately after Judge Hoehling dismissed the jury, Wilton Lambert asked for bail for Ziang Sung. “It would be inhuman to incarcerate this man any longer,” he argued, “He has been in jail for seven and a half years. Twenty-four men have considered his case.”¹⁰⁸ Hoehling did not make a ruling on this, or on Lambert's formal motion for bail, submitted the next week. Ziang Sung stayed in jail.¹⁰⁹

¹⁰² For an account of this second trial, see Seligman, 114-118.

¹⁰³ Seligman, 118-119.

¹⁰⁴ Seligman, 119.

¹⁰⁵ For an account of this trial, see Seligman, 119-122.

¹⁰⁶ Seligman, 122.

¹⁰⁷ Seligman, 122.

¹⁰⁸ Seligman, 122.

¹⁰⁹ Seligman, 122.

On May 27th, Lambert submitted a motion to dismiss the charges. He included affidavits from the nineteen jurors across Ziang Sung's three trials who had voted for acquittal. US Attorney Peyton Gordon told Lambert he would decide in the next few weeks whether they would be moving forward with a fourth trial – which could not take place until the court's October term, in any case.¹¹⁰

Attorney General John G. Sargent decided to weigh in. In his opinion, Ziang Sung would never be convicted without the confession. Another trial would be a waste of taxpayer money – the three trials had already cost the government an estimated \$150,000 - or \$2.6 million dollars today.¹¹¹

US Attorney Gordon reluctantly agreed. At 10:05 AM on June 16th, 1926, Gordon formally requested that Judge Hoehling dismiss all charges against Ziang Sung and his brother Tsong In. Standing in the same spot at the same table in the same courtroom in which he had been sentenced to death six years earlier, Ziang Sung took it all in. He was free.¹¹²

Tsong In too, was free. To avoid the notoriety associated with the trial, he began going by the first name Thomas.¹¹³ He appears to have stayed in the United States for the rest of his life, and in 1950, helped found the Chinese League of America, a non-profit that helped, quote “foster the fundamentals and ideals of American citizenship and the Constitution of the United States” amongst Chinese immigrants in New York.¹¹⁴

Ziang Sung was understandably more skeptical about the ideals of American citizenship, given his ordeal. He stayed in the US for several more years before returning permanently to Shanghai.¹¹⁵ He married and had three daughters and lived a comfortable life. But seven years after his return, in 1937, the Japanese occupied Shanghai and took his home and land. During World War II, his nearly penniless family often went hungry. After the war, Ziang Sung managed to get a short-lived job with the foreign relations office. But then, in 1949, the Chinese Communist Party defeated the Nationalist government in the Chinese Civil War and declared the birth of the People's Republic of China. As a member of an elite family, a former government employee, and a one time American resident, Ziang Sung was viewed with suspicion by the new government. He was declared an enemy of the state and sent to a labor camp. He would remain there for nearly fifteen years. In 1964, he was transferred to a prison in Shanghai, where he lived until his death in June 1968, age 72. For this final prison

¹¹⁰ Seligman, 123.

¹¹¹ Seligman, 123 and United States Consumer Price Index Inflation Calculator.

¹¹² Seligman, 124.

¹¹³ Seligman, 162-163.

¹¹⁴ Seligman, 163.

¹¹⁵ Seligman, 130-132.

sentence, in a dark twist of fate, the man who had undergone three trials in the United States – received no trial at all.¹¹⁶

That’s the story of *Ziang Sung Wan v. United States*. After the break, a brief exploration of the mystery at the heart of the case – and a discussion of the case’s meaningful legal legacy.

EPILOGUE

Who murdered Dr. Theodore Wong, Hsie Changxi, and Wu Bingxin? We will likely never know the truth. But historian Scott Seligman, in his excellent book on the case, titled *The Third Degree*, presents a compelling case for a surprising suspect: none other than Ziang Sung.

Seligman argues that, despite the extremely suspect circumstances of Ziang Sung’s confession, the details within that confession closely align with the facts of the case. “The available evidence,” Seligman writes, “points convincingly to a scenario in which [Ziang Sung] and [Wu Binxin] conspired to steal money from the Chinese Educational Mission; in which their plans were foiled; in which [Wu] used his own revolver to shoot both of his colleagues to death; and in which [Ziang Sung] subsequently murdered Wu with the same gun.”¹¹⁷ Neither of the men could have committed the crime alone – Wu did not speak good enough English to forge the check or try to pass it in the bank; Ziang Sung did not know where the mission kept its checkbook or where they banked.¹¹⁸ Wu had the gun - perhaps he really did shoot Wong and Hsie, and then was killed by a horrified Ziang Sung.

Or of course, it could be someone else entirely – again, we likely can’t know the truth at this late date. But if it was Ziang Sung, if he was indeed guilty, should this change our feeling about this case? Scott Seligman argues that it shouldn’t, and I agree. “The importance of [this] case,” Seligman writes, “...does not hinge on the defendant’s guilt or innocence. A system that presumes innocence until guilt is proven must of necessity provide protections against false conviction, even at the price of the occasional failure to convict the guilty.”¹¹⁹ This concept is one that has been baked into our legal system from its earliest days. In the very first episode of *History on Trial*, the 1800 trial of Levi Weeks, defense lawyer Aaron Burr quoted jurist Matthew Hale, saying, quote: “it is better that five guilty persons should escape unpunished, than one innocent man should die.”¹²⁰

¹¹⁶ Seligman, 157.

¹¹⁷ Seligman, 154.

¹¹⁸ Seligman, 154.

¹¹⁹ Seligman, 156.

¹²⁰ Matthew Hale, *Pleas of the Crown v. II*, p. 289-290, edition unknown.

The importance of Ziang Sung' case is the groundwork it laid to help protect against wrongful convictions. Brandeis's Supreme Court opinion put in place further safeguards for suspects undergoing interrogations and reduced the likelihood of false confessions dooming defendants. And these safeguards would be strengthened by further Supreme Court rulings. The most famous of these rulings came more than forty years after Ziang Sung's final trial and two years before his death: the 1966 Supreme Court case *Miranda v. Arizona*. The defendant in that case, Ernesto Miranda, had been convicted for a kidnapping and rape based in part on a confession he had given without having been advised of his legal rights. Chief Justice Earl Warren, in his *Miranda* opinion, cited Brandeis's conclusions from the Ziang Sung case on how any confession obtained by compulsion must be excluded, and continued, quote "Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of free choice."¹²¹ Warren listed those protective devices, a series of rights which would soon be administered by law enforcement officers all across America in the form of the now-familiar Miranda Warning: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?"¹²²

The Miranda warning, and other safeguards put in place over the past 100 years, have not provided complete protection against coerced confessions. The Innocence Project reports that in, quote, "approximately 25% of wrongful convictions overturned with DNA evidence, defendants made false confessions, admissions or statements to law enforcement officials."¹²³ Only earlier this year, in May 2024, the city of Fontana, California, had to pay a man named Thomas Perez Jr. \$900,000 dollars after they coerced a confession from Perez. In 2018, after Perez reported his father missing, Fontana detectives used extreme tactics to try to get Perez to confess to murdering his father. They denied Perez his anxiety and blood pressure medications, interrogated him for 17 hours, and told Perez that his dog would be euthanized. Eventually, Perez confessed. It turned out that Perez's father was not even dead.¹²⁴

¹²¹ *Miranda v. Arizona*, 384 U.S. 436 (1966), <https://supreme.justia.com/cases/federal/us/384/436/>

¹²² "What Are Your Miranda Rights?" *MirandaWarning.org*, 2024, <http://www.mirandawarning.org/whatareyourmirandarights.html#:~:text=%E2%80%9CYou%20have%20the%20right%20to,will%20be%20provided%20for%20you.>

¹²³ "Overturning False Confessions," *Innocence Project*, September 14, 2010, <https://innocenceproject.org/overturning-false-confessions/>

¹²⁴ "CA City Pays \$900K For Falsely Accusing Man of Killing Father," *National Criminal Justice Association*, May 26, 2024, <https://www.ncja.org/crimeandjusticenews/ca-city-pays-900k-for-falsely-accusing-man-of-killing-father>

So yes, the problem of forced confessions is a pervasive one. But thanks to dedicated lawyers more than a century ago, suspects today have more protection than Wan Ziang Sung did.

Thank you for listening to History on Trial. If you've enjoyed the show, please consider leaving a rating or review – it can help new listeners find the podcast! My main source for this episode was Scott D. Seligman's book *The Third Degree: The Triple Murder that Shook Washington and Changed American Criminal Justice*. Special thanks to Christina Chen for her guidance on Shanghainese pronunciation. For a complete bibliography as well as a transcript of this episode with citations, please visit our website historyontrialpodcast.com.