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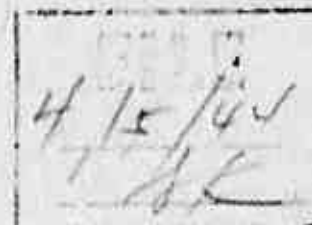
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SENTENCE (COURT - MARTIAL)  
APR. 1941

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HEADQUARTERS  
PENTAGONAL BASE SECTION  
APO 782

AG 250.47 BPJAG

26 April 1944

Subject: Suspended, Remitted and Mitigated Sentences.

To : See Distribution.

*original to Lt. Baschins*

1. It appears that there is considerable misunderstanding regarding the meaning of suspended, remitted and mitigated sentences. This letter is intended to clarify the misunderstanding. The law regarding the question is set forth in Articles of War 50 and 52. The matter is discussed on pages 76, 77 and 83, Manual for Courts Martial, 1928.

2. a. A "suspended sentence" is one in which the execution of the sentence is postponed. As long as the execution is suspended, the accused does not have to serve the sentence.

b. The execution of the sentence may be suspended indefinitely or for a definite time. In either event, the suspension may be vacated and the sentence ordered executed at any time.

c. A sentence may be suspended in whole or in part. When a man is sentenced to dishonorable discharge and confinement at hard labor for a period of years, the dishonorable discharge is frequently suspended until his release from confinement. In such cases, the suspension applies only to part of the sentence and it remains in effect only until accused's release from confinement.

d. When the suspension of a sentence is terminated, the sentence must be served, unless it is remitted.

3. a. A "remitted sentence" is a forgiven sentence; it is legally dead, it need never be served, and it cannot be resurrected.

b. All or any part of a sentence may be remitted, and it may be remitted at any time. For example, when a man is sentenced to dishonorable discharge and confinement at hard labor for five years, the dishonorable discharge may be suspended and three years of the confinement may be remitted; after serving six months of the confinement, the balance of the confinement and the dishonorable discharge may be remitted.

4. A "mitigated sentence" is one in which a part of the sentence has been remitted.

5. Sentences may be suspended, mitigated or remitted, and suspensions of sentences may be vacated and the sentences ordered executed, by the accused's commanding officer, who is authorized to appoint the kind of court which gave

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the sentence. For example, if accused is sentenced by a special court-martial, his commanding officer who is authorized to appoint special courts-martial, has power to suspend, mitigate or remit the sentence and to vacate a suspension thereof and order it executed.

6. Forms of special court-martial orders for remitting and suspending sentences, and for vacating suspensions of sentences, are set forth in paragraph 11, Circular No. 10, Peninsular Base Section, 1943. Forms for vacating suspensions are also set forth in appendix 11b, Manual for Courts-Martial, 1928. Company orders, patterned after the above forms, will be used to modify sentences imposed by summary courts.

7. It is desired that commanding officers inform all personnel with suspended sentences that any misconduct warranting punishment will result in the issuance of orders vacating the suspension and ordering the execution of the remainder of the sentence.

8. If it becomes necessary to prefer charges against personnel with suspended sentences, it is desired that the statement of previous convictions state the fact that the particular sentence has been suspended.

By command of Major General WILSON:

/s/ L. F. Nickel  
/t/ L. F. NICKEL  
Lt Col. A.G.D.  
Adjutant General

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