

Declassified E.O. 12356 Section 3.3/NND No.

785015

ACC

10000/101/466

Declassified E.O. 12356 Section 3.3/NND No.

785015

10000/101/466

INCANDELA CASE
JAN. - JUNE 1944

LIST OF PAPERS

File under No. 383.6-X(11)

INCANDELA CASE-

HQ ACC, APO 394
Sec' y Gen.

39

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS

3470

3478

Declassified E.O. 12356 Section 3.3/NND No. 785015

File under No. 383.6-X(11)

INCANDELA CASE

HQ ACC, APO 394
Sec'y Gen.

B

SERIAL NUMBER	FROM	DATE	TO	SYNOPSIS

3470

Instructions.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

785015

UNITED STATES REPRESENTATIVE
ADVISORY COUNCIL FOR ITALY

Incandela Case

NF
more SF

Naples, June 13, 1944.

My dear General MacFarlane:

I'm returning herewith your file on the Incandela case, concerning the recall of a paroled prisoner-of-war by the Italian Government, and wish to state that I agree with your suggestion to defer consideration of this case until such time as the prisoner-of-war situation crystallizes.

You will note from the attached memorandum that Sir Noel Charles also concurs in your view.

Sincerely yours,

A. Rich

Enclosure as stated.

General Sir Noel Mason MacFarlane,
Chief Commissioner
Allied Control Commission,
Naples.

PA. *No action at all.*
State on this
until you hear 3469
up again. Humph

(7E)

785015

N° 6/51/44.

OFFICE OF THE BRITISH HIGH COMMISSIONER IN ITALY,
Via Agostino de Pretis,
NAPLES.

9th June 1944

Dear John,

I return to you the papers about the recall of paroled prisoners of war by the Italian Government.

2. The High Commissioner agrees with General MacFarlane that it would be as well to defer consideration of this case for the present.

Yours ever,
Hubert

J. Goshie, Esq.,
U.S. Delegation,
A.A.C.I.,
Villa Matarazzo,
NAPLES.

Declassified in 1985

705015

CONFIDENTIAL

FNM/rj

HEADQUARTERS ALLIED CONTROL COMMISSION

Office of the Chief Commissioner

APO 394

NF
also SF
except initials

Ref. CC/G/361.

2nd. June, 1944.

MEMORANDUM:

TO: The Hon. Alexander Kirk.
Sir Noel Charles, Bt., KCMG.

The attached case has been going on for months.

I suggest stalling on it until, if ever, the P.W. situation crystallizes. There are innumerable other more difficult P.W. cases still unsolved.

Noel MacFarlane

NOEL MASON MACFARLANE,
Lieutenant-General,
Chief Commissioner.

3468

(7)

dt

CONFIDENTIAL

FTMM/rj

HEADQUARTERS ALLIED CONTROL COMMISSION

Office of the Chief Commissioner

APO 394

Ref. CC/G/361.

2nd. June, 1944.

MEMORANDUM:

TO: The Hon. Alexander Kirk.
Sir Noel Charles, Bt., KCMG.

The attached case has been going on for months.

I suggest stalling on it until, if ever, the P.W. situation crystallizes. There are innumerable other more difficult P.W. cases still unsolved.

Noel Mason MacFarlane
NOEL MASON MACPARLANE,
Lieutenant-General,
Chief Commissioner.

3468

(7)

86

Declassified E.O. 12356 Section 3.3/NND No. 785015

RESTRICTED

SEC GEN

U-9326

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

CAS/CF/cage

HQ ACC, APO 394

Sec. Gen.
Rec'd 30 May 1944
FD

G-5: 363.6

27 May 1944

SUBJECT: Recall of Paroled Prisoners of War by Italian Government.

TO : Headquarters,
Allied Control Commission, APO 394
(Attention: Chief Commissioner)

Inclosed, for your information and for such action as may be found appropriate, is a copy of a letter on the above subject from the C.O., Island Base Section and 10th Port, dated 19 March 1944, together with a copy of the Coordinating Route Slip indicating the consideration which the basic letter received at this Headquarters.

HEADQUARTERS

30 MAY 1944

A. C. C.

Charles M. Spofford

CHARLES M. SPOFFORD,
Colonel, G.S.C.,
Asst. Chief of Staff, G-5.

3467

C-O-P-Y

RESTRICTED
INFORMAL ROUTING SLIP

DATE: 18 April 1944

SUBJECT: Recall of Parole Prisoners by Italian Government

1 G-1 MCS 18 Apr Your comments are requested.
G-1 (B)(in turn) For and in the absence of the AG of S, G-1

1 Incl: Ltr, IBS & 10th Port, W. P. E.
file AG 383.6 (IBSPM). subj
as above, dtd 19 Mar, w/ind

TES/mhm

2 M.G.S. G-1 (B) 21 Apr 1. The basic letter encloses correspondence
44 between Italian military authorities and local civil
police, wherein appears the statement that the parole
of an Italian prisoner of war now present in territory restored to the administration of
the Italian Government "is not in effect because that zone was returned to the Kingdom of
Italy". This is an erroneous view. The administration of that portion of the mainland
south of the northern boundaries of the provinces of Salerno, Potenza and Bari, as well as
Sicily, was on 11 February 1944 restored to the Italian Government, "subject to all powers,
rights and immunities of the United Nations and of the Allied Commander in Chief and Allied
Control Commission". Among these is the right to retain custody over prisoners of war.
The right to release on parole is inferable from the right to hold in custody.

2. Quite aside from the foregoing, however, is
the fundamental consideration that a parole is a personal relation, binding on the prisoner
of war no matter, where he may be; accordingly, "[his] own government is bound neither to
require of nor accept from [him] any service incompatible with the parole given." Article
10, Hague Convention of 1907 on the Laws and Customs of War on Land.

3. It appears probable that some local official
has not appreciated that even though the Italian Government now has jurisdiction over re-
stored territory and its inhabitants, its power is always limited by the general rules of
international law as well as by the specific rights retained by the Allied Forces. It is
recommended that after consideration by interested staff sections the papers be returned to
Military Government Section for the purpose of communicating a copy of the basic communi-
cation and related papers to the Allied Control Commission, in order that the matter may be
taken up with the Italian Government with a view to inducing any action which may be found
appropriate.

CMS/CF/jw

Incl: n/c/

/s/ CHARLES M. STOFFORD
/t/ CHARLES M. STOFFORD,
Colonel, G.S.C.,
Chief of Section.

3466

RESTRICTED

785015

C-C-F-Y

RESTRICTED

COORDINATING ROUTE SLIP

File No. A 9391

Date

Originated: 18 April 44

SUBJECT Recall of Parole Prisoners by Italian Government

3 G1(B)A2 G1(A) 17 May
44

1. The position appears to be that Italian PW on parole can only be released for service in Italian Army on the authority (or delegated authority) of this HQ.

2. A solution, which might meet cases such as this, is to release the PW from his parole, inform both the PW and the Italian Government that this has been done and let matters take their course.

3. It is suggested that ACC should be communicated with as recommended by MGS.

/s/ A. S. BARSDORF
A. S. BARSDORF, Lt. Col., A.A.G.,
for Major General,
G.I.(B)

ASH/aws.

4 G-1 G-5 20 May

1. Returned to you as recommended par.
3, minute 2.

FSL/mhm

B.M.S.

3465

RESTRICTED

(7a) 86

785015

RESTRICTED

363.6(SSPMO) 1st Ind.
HEADQUARTERS, 305 MATOUSA, APO 750, U. S. Army, 13 April 1944.

TO: Commanding General, MATOUSA, APO 534, U.S. Army.

1. Basic communication and attached communication present question of present status of Sicilians paroled by U.S. forces, the validity of obligations of parolee under the parole as issued and right of recall pursuant to the terms of parole.

2. While it is recommended that the parolees be released to the Italian Government, it is believed this should be done only after clarification of the status of Italian prisoners of war now held and after adequate safeguards of Allied interests in this territory have been established.

3. It is further believed that is essential that any action be coordinated with the British so that any action taken with respect to U.S. parolees will not be at variance with action taken with respect to British parolees.

For the Commanding General:

/s/ J.V. Sheldon
/t/ J. V. SHELDON,
Major, A.S.D.,
Asst. Adjutant General.

1 Incl:
n/c

3464

RESTRICTED

(5) ~~26~~

785015

COPY

RESTRICTED

HEADQUARTERS
ISLAND BASE SECTION AND 10TH PORT
APO 550

AG 383.6 (IBSPM)

19 March 1944

SUBJECT: Recall of Parole Prisoners by Italian Government

TO : Commanding General, SOS, MATUSA, APO #750

1. Reference your Cable 4650 SSPMC-S, the attached communication between Italian Military authorities and local Civil Police is submitted for your information.

2. This communication indicates that the recall is not for screening purposes but for re-induction into the Italian Army and service on the mainland. Communication also states that paroles issued in this territory are to be considered no longer in effect.

3. Under the conditions of his parole, the parolee agrees to report to specified officials periodically and agrees that he will not change his place of residence without prior approval of the Civil Affairs Officer with whom he is registered.

4. If paroles issued by Allied Forces are to be considered no longer in effect as indicated in the attached communication, then the provisions of MATUSA Cable 4606 which authorized the revocation of paroles at the discretion of the Base Section Commander would also seem to be no longer in effect. It is obvious that the parolee cannot comply with conflicting instructions from the Allied Military authorities and the Italian Military authorities.

5. The release of parolees to rejoin the Italian Army is also a violation of instructions contained in MATUSA Cable 4623 in AGAP which states that "No POW will be released to any activity which will return them to the Italian mainland and that specific requests for such personnel should be made by the Italian Government through established channels.

6. All available information indicates that persons arrested are Sicilian parolees and are not being apprehended because of criminal or previous military violation but for service in the Italian Army.

7. Only two or three such situations have arisen; however, it is believed that this is no indication that there will not be many such cases in the future. Therefore, it is requested that this situation be

3463

RESTRICTED

(7) *[Signature]*

RESTRICTED

Subject: Recall of Parole Prisoners by Italian Government 18 March 1944

clarified and a policy established for future guidance.

For the Commanding Officer:

/s/ J.E. Sherry
/t/ J. E. SHERRY
Major, A.G.D.
Asst. Adjutant General

Incl:

Copy of communication between Italian
Military authorities and local Civil
Police

3462

785015

Translation

RESTRICTED

(Not Raffaele)

SUBJECT: INCANDELA Emanuele Aviation Soldier
Residing at No. 24 Via Galileo, Bari

Bari, 18 Jan. 1944

"We beg this Command to make the Military present himself to the writer, if he is with his parents, there residing."

Captain Pilot, Commander
Ignazio Morsellino.

Villabate, 31 Jan. 44

"The mentioned aviation soldier, who was questioned, declared that before the occupation of the Allied troops, he was on convalescent-furlough. While he was returning to his department, air port 466 P.M. 4550 Manduria, he was captured and made prisoner of war by the Allied Forces in Sicily and later released on parole as specified in his document No. 4069., issued on the 15th September, 1943, by the concentration camp of Prizzi, Sicily."

Vice Brigadier,
Paolo Culotta.

Bari, 27th February, 44

"In reference to Folio No. 22/3, dated 31st January of this Command, we beg you once more to order the said Military to present himself urgently to this Company, Forza Assente, to which he was transferred from the airport of Manduria on account of war events.

You are informed that the document, which he bears is not in effect because that zone was returned to the Kingdom of Italy.

This case is recommended."

Captain Pilot Commander
Ignazio Morsellino

C
O
P
Y

3467

(7)

2 2 2 0