

1653

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

785017

10000/109/594

ACC

1654

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

785017

10000/109/594

DEATH SENTENCES
AUG. 1944 - JUNE 1946

785017

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

Exec. Commission 78-

Ref folio 74, 20 of Summary
note. Action as been taken and
daily dispatched today for info.

Legal
3 Jan 66.

W. H. H. H.
C. L. R.

80

Final
C.S.O.

Re see 2) min 78 in reply to your min 75.
3) folio 79 for info. DS 4/1

82

Final
C.S.O.

Re see 81 for info.

C.S.O. 11. 24/6

96
20 of folio 93. please see folio 90
24/6

785017

CSO

63

Understand CHA writing to clearance.

W/B/xii

64

CLH

Min 63 above

7/12

66

CSO

Pse see 65: file will have to be returned

to CLH for action on min 64. CRJ 14/12

E. G. Jones

67

Action taken & letter for signature of C in file

17/12/1955

Legal d/o
17/12/1955

G. G. Jones
17/12/1955
P. G. Jones

68

Let's leave copies of letters referred to in min

785017

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

Action taken & letters for signature of CC in file

10/29/12

Legal
17/12/12

cc G. G. Thompson
H. G. G.
W. G. G.

68

Let's leave copies of letters referred to in

70/12/12

67 for this file.

17/12

17/12

69-70 for info. A very interesting letter.
24/12

75

Legal

Ref. x P. 74 will you be good enough
to take the necessary action.

24/12

17/12

76/12

31/12

QC Please send to Legal-
75/12

785017

Ex. Com.
C.S.O.

(54)

So for info
1-11-10
9/10
DB 10/10

TR/Cg/x

(54)

Note

Spoke with Col Weber & Judge Thomas ref 53:
Col Weber is reluctant to interfere since
it is an entirely domestic Italian matter
Judge Thomas is of same opinion and added
that he did not consider that 53 needed
an answer. However both are considering
the case and will inform if there is any-
thing new.

P.A. DB 16/10

Ex. Com.

56

2/30 (see 222 53) for info.
10/10
20/10
DB 20/10

(57)

C LA to speak & bring the letter under reference.

4379

DB/20/10

785017

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

P.A. OS 6/10

56

Ex. 100.
 230 Per sec 51 for info.
 20/11

(57)

1370

C.L.A. to speak & receive the letter under reference.

112/23/11

(58)

K.D. has spoken to C.L.A. No further action. for 20/11

60

230 Per sec (57) for info

OS 3/12

62

Ex. 100.

230 Per sec 61 for info

OS 4/12

for 20/11

1660

785017

16- Cont.

the death warrant is properly & fairly executed
(in the interests of justice & humanity) but that
the execution is recorded on the record
which presumably is kept by him.

7/5/27a

To C.O.S. (17)

110401L

The file containing ~~was~~ copy of

28/10/44

letter to A.F. Hqr. Proposing a new plan is
already before you.
28 Oct.

SPR

1/18/25/4

Thank you. 22/27a.

24

COS Please see 23

24

15/12 27/10/44

15 Dec 44

4309

29

785017

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

COS Please see 23

15 Dec 44

15712 TH/6/1001

4309

29

CSO

You may wish to see in 28 the formalities
necessary for carrying out an execution.
The drill is already known + 28 puts in
one place previous instructions.

22 Jan 45

TH/6/1001

785017

14

D/Chief kept Review

Please see Cos minute at

last of Jan letter at 13

opposite

Fuller Day's

Office of Cos

26.10

Ref 388.

15.

→ Cos.

Have spoken to AFHQ (G-2). They have undertaken to issue immediate order to all concerned (copy sent) today to ensure that all 3 persons secure a prompt and peaceful passage to a foreign world.

Handwritten note: ~~Handwritten~~ in blue ink.

26 Oct 44

16

Secos. C.A.S.

26 Oct 44

16

JCOS. C.A.S.

I am not at all satisfied with the follow-up of the signing of these death warrants. The men have been tried, 1308 by A.M.G. courts sentenced to death. There, on behalf of the A.C.C. signed the warrant. The warrant was erroneously made out because it authorized execution by P.B.S. whereas the men were not in custody of P.B.S. nor in P.B.S. area. The procedure was in fact out of date & should have been brought up to date. Having had the warrant signed no steps apparently are taken to ensure its execution: nor is the execution entered in the record - at any rate C.A.S. does not receive a report thereon.

In his capacity as Chief Judicial Officer I think it essential that C.A.S. should not only ensure that

1663

785017

785017

5
Ref 2 letter written by Legal SC to
HFD on 8 Oct for delegation of authority also
to Com Stone. A/C informed.

[Signature] 10/10

PA to A/CC

6

Ref Jotio 4 please see Minute above.

[Signature] 11/10
Office of Capt

Captain Thoren. (Office of C.O.S.)

7

1 Rand told Colonel Wilmer to ignore Jotio 4 in view of its having
covered with 3.

[Signature] Major

Major Quynle

10

9-10.

18/10

[Signature]

9-10.

4-18/10

14-

4303

Major Talbot.

Ref. ⑧ & ⑦ I have taken original letters for the A files, & substituted our copies.

J.A. Dwyer
19-10

14.

C.A. Sec.

Please see comment of c of S on folio 15.

H. Mason

J/cor,

OFFICE CHIEF OF STAFF.

22 out 44

Original in communication
4-18/10
220017944

1669

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

785017

1666

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

785017

2609

71

95

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

AC/4119/5/1

22 June 1946. ^{AP/ns}

JUN 23 1946

My dear Mr. Prime Minister,

Further to my letter AC/4119/5/1 of 3 June 1946 please be advised that the sentence of death passed on Col. TURCO at Milan on 10 April 1946 was on 14 May 1946 commuted to one of fifteen years imprisonment.

Orders have been issued for this sentence to be put into execution and it is regretted that no further appeals or petitions can be entertained on behalf of Col. TURCO.

Yours very truly,

M. S. LUSH

Brigadier,
Executive Commissioner
for the Chief Commissioner.

His Excellency
Dott. Alcide De Gasperi
Presidente del Consiglio dei Ministri
ROME.

4356

Copy to: C. Com. ✓
E. Com. ✓

18
DITK

See M. 96

34
R. 10
R. 10

1667

785017

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

2609

92

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

AC/L119/5/1.

3 June 1946.

My dear Mr. Prime Minister,

93

Your letter of yesterday asking the Chief Commissioner to intervene with the Allied Authorities for a commutation of the death sentence passed upon Colonel Francesco Paolo Turco by a War Criminal Tribunal at Milan on 6th April is being sent at once to Caserta for consideration by the Supreme Allied Commander. When a reply is received I shall inform you at once.

Yours very truly,

M. S. LUSH

Brigadier,
Executive Commissioner
for the Chief Commissioner.

His Excellency
Dott. Alcide de Gasperi
Presidente del Consiglio dei Ministri
Rome.

Copy to

G. C.

G. C. ✓

4365

Sub-95

PA

4/6
2

(CDPT K)

1668

785017

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

2609
JR

EC
93

TRANSLATION

THE PRESIDENT OF THE COUNCIL OF MINISTERS
69416/67220/2.4.2

Rome, 31 May 1946.

JUN 1 1946

Dear Admiral,

Colonel Francesco Paolo TROG has been sentenced on 13 April 1946 by the Allied Military Court of Milan to death.

Following the requests received from the Italian military authorities and the mere appeal addressed to me by the family of the above-named officer in his favour, I take the liberty to appeal to your sense of humanity asking you - if you consider this possible - to intervene without delay with the competent Allied Authorities for a commutation of the inflicted penalty.

Col TROG was wounded in the war 1915-1918 and, besides various Italian military awards, is also decorated with the Distinguished Service Order which was conferred upon him by the Royal British Government with decree of 7 July 1917.

With very thanks,

yours very truly,

/s/ E. Gasperi

see 94

EC DIST-31 May
ACTION - CA for Legal
INFO - CC

- EC
4304

Admiral Ellery M. Stone
Chief Commissioner
Allied Commission
Rome.

sent to CA for 0845 hrs 1 June
with immediate action taken.

8/16

(CAPT K)

1669

785017

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

2609

92.

Ref : 4/29.42/CA

12 Apr 46

APR 13 1946

My dear Mr. Prime Minister,

I received your letter of the 31 March concerning the sentence of death passed by a British Military Court on 8 March against Carabinieri Marinello BONINI.

I immediately transmitted your letter to AME who have jurisdiction in a matter of this nature and I feel sure that your appeal will receive due consideration.

W. S. LUSH

Brigadier,
Acting Chief Commissioner

Dr. Alcide De Gasperi
The President of the Council of Ministers
Italian Government
Rome.

4353

(SPTX)

PA

1670

785017

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

TRANSLATION

2609

EC

91

65431
1.2.1.

Rome, 31 March 1946

APR 1 1946

The President of the Council of Ministers

Dear Admiral:

As you will probably know, the English Military Court in Afragola (Napoli) sentenced to death on March the 8th the Carabinieri Marinello Sodini, accused of killing an Allied prisoner of war. The man has appealed to higher authorities against the sentence.

As I am receiving letters from all parts begging me to intervene in favor of Sodini, I am bringing the case to your attention so that with your high sense of justice and impartiality you might be willing to consider the action of Sodini as an action that went beyond his intentions, and that his behavior was determined by a subjective, even if wrong, interpretation of the intentions of the prisoner towards him.

Believe me,

/s/ DE GASPERI

To Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome

URGENT

EC. Dist. 1 Apr. 46.

ACTION. CASP. 22

INFO. EC.

cc.

see 92

102
103

(900 K)

1671

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

785017

2609

90

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.
4 March 1946.

AC/4083/93/L.

SUBJECT : PIAZZA, Liborio.

TO : Rt. Rev. Mons. Walter S. CARROL,
Secretariat of State of His Holiness.

1. Reference your N. 113145/SA of 22 Feb. 46.
2. The above mentioned person was tried before an Allied Military Government Court sitting at Genoa on 22 Sept. 45. He was sentenced to death.
3. The case was reviewed at this Headquarters and the sentence of death was confirmed by the Chief Commissioner.
4. The former accused was executed 21 January 1946 at Genoa.

Anthony P. Nugent
ANTHONY P. NUGENT,
Maj. r.,
Chief Counsel,
for Chief Legal Advisor.

Copy to : Captain Victor ODDI
Office of the Executive
Commissioner
H.Q. A.C.

P.A.
180

4361

(L)

PA
7/3
SB

1672

785017

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

HEADQUARTERS ALLIED COMMISSION
Office of the Executive Commissioner
Liaison Division
APO 394

Ref 2609/89/EC

28 February 1946

Monsignor Walter Carroll

Reference your 113145/SA dated 22Feb 1946.

Your letter has been forwarded for consideration to Civil Affairs
Section for Legal S/C and necessary action will be taken.

Brigadier
Executive Commissioner

Dec 87 488

4360

1673

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

785017

VLO/eb

Ref: 2609/88/23

28 February 1946

SUBJECT: Death Sentence - Piazza Liborio -

TO : Civil Affairs Section
for Legal Sub Commission

1. Reference the attached request No. 113145/BA of 22 Feb. 1946 from the Vatican for consideration and leniency re death sentence imposed on Piazza Liborio, son of Ritrova Conetta, Vice Assoreto No.1/3, Genoa.

2. It is kindly requested that the Legal Sub Commission take any action it may deem necessary and reply directly to the Vatican.

VICTOR L. ODDI

Brigadier
Executive Commissioner

Encl: ltr fr Segret. Stato di Sua Santita no 113145/BA of 22 Feb. 1946

see 90

4359

1674

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

785017

C O P Y

SEGRETERIA DI STATO
di SUA SANTITA

Vatican City, 22 February 1946

No. 113145/BA

Dear Captain Oddi:

The Secretariat of State of His Holiness takes the liberty to request that you recommend to the attention and kind consideration of the competent Allied Authorities the petition of Ritrovato Conchetta, ved. di Piazza Salvatore, Vico Assereto No. 1/3, Genova, for a commutation of the death sentence imposed upon her son, Piazza Liborio.

The request states that Piazza Liborio was involved in the murder of three carabinieri. According to the statement of the mother, the judges admitted that he was not the leader of the group and that actually there is a petition for reprieve before General Stone.

Thanking you for your kindness, I am

Sincerely yours

s/ illegible
for Rt. Rev. Mons. Walter S. Carroll
Secretariat of State of his Holiness

Captain Victor Oddi
Liaison Division
A C H Q
Via Veneto

R O M E

See 90 4358

1675

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

785017

Cine of Piazza
To Ex. Comm. SECRET

Here with copy of note and
of wire sent to Distro as
Requested

4/XII

MC

Copies to Italian Govt.

✓

DS/41

4357

1676

785017

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

2609

3618

SECRET

84

APC 394

4th January, 1946

To: Executive Commissioner

With reference to the attached case, I have discussed the matter with Signor Ferrari who is Chief of the Police and Director General for Public Security in the Ministry of Interior. He was the official in the Ministry who was most readily available.

Signor Ferrari raised two points:-

- (a) That the situation in Genoa as regards public order was very far from satisfactory. He had not any information as to the probability of disturbances if this particular sentence was carried out tomorrow morning. He agreed that the situation as regards public order was, in general, the same throughout all North Italy. It was explained that time did not permit of communication with Genoa to find out what the situation was from the Italian point of view.
- (b) Signor Ferrari thought that the carrying out of the sentence in the case of Piazza before decisions had been taken by the Luogotenente and the Italian authorities concerned in the sixteen cases under consideration might influence the decisions taken in these sixteen cases.

I pointed out to Signor Ferrari that our primary concern was that of public order and the possibility of disturbances leading to an attack on the prison and a mob taking the law into their own hands as regards the sixteen cases under consideration by the Luogotenente.

After a general discussion on this matter Signor Ferrari stated that in his opinion, and he felt that his Minister would agree, a postponement of the sentence in the case of Piazza of one week would be opportune. Signor Ferrari considered that this would give time for full precautions to be taken and it was hoped that within the week action would have been taken in regard to the other sixteen cases.

I said I would put Signor Ferrari's view to the Chief Commissioner and I would telephone him as soon as a decision was taken in the matter.

Signor Ferrari said he would bring the results of the discussion which had taken place to the notice of his Minister as early as possible.

mc
M. CARR
BRIGADIER
V.P. CIVIL AFFAIRS SECTION

1677

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

785017

2609 8V

2 83

ACPSF HQ ALCOM

4 JANUARY 1945

HQ DISTWO

AMG LIGURIA REGION RC FOR RPSO

9923

SECRET

PARA ONE PD IN CONFIRMATION OF TELEPHONE CONVERSATION
COLONEL BYE CMA PUBLIC SAFETY ALLIED COMMISSION AND MAJOR
GHOST DAAG DISTWO PD

PARA TWO PD RE PIAZZA LIBERIE AWAITING EXECUTION IN MARASSI
PRISON GENOA CMA IT IS CONFIRMED THAT THERE SHOULD BE A STAY
OF EXECUTION UNTIL ONE TWO JANUARY FOUR SIX FOR PUBLIC SECURITY
REASONS AT THE REQUEST OF THE ITALIAN GOVERNMENT PD UNLESS
ADVISED TO THE CONTRARY THE EXECUTION MAY BE CARRIED OUT ON
ONE TWO JANUARY PD

4355

PRIORITY

Public Safety S/C

478427

E. J. Bye
E. J. BYE, Colonel.

G. J. LEONE
CWO USA
Asst Adjutant.

1678

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

785017

2609 86

81

L. F. Brown

1573

9/6731

JAN 050500

IMPORTANT

ALLIED COMMISSION LIAISON GROUP GSHOA P S O
HQ ALCOM CITE ACPSF

RESTRICTED

RESTRICTED

Reference previous correspondence and my signals 1481 of 12 December regarding political prisoners condemned to death and 1535 of 22 December respecting sentence of death against Piazza Liborio formurder of carabinieri. For some time considerable discontent expressed here at delays in confirming sentences against condemned political prisoners. Information received from time to time regarding attempts to release and summarily execute these political prisoners and to set at liberty prisoners convicted for murder of carabinieri. So far precautions successful. Arrangements for execution of Piazza Liborio in hand vide your 9590 dated 22 December but if Piazza executed before political prisoners grave disturbances may occur. Suggest postpone execution of Piazza pending decision RE condemned political prisoners. Reply instruction urgently. Report follows.

AC DIST

ACTION: LEGAL S/C

INFO: CHIEF COMMISSIONER

EX. COMMISSIONER 2

C A SECTION

PUBLIC SAFETY S/C

FILE

RESTRICTED

4354

See M. 82

HA
91
12

(SPP) 2) 225
7/1

79

2609 90

HEADQUARTERS ALLIED FORCES

APC 394

LEGAL SUB-COMMISSION

Ref: NO/ADGE/1/1.

2 January 1946.

SUBJECT: Petitions for mercy in death sentences pronounced by Extraordinary Courts of Assises in AO territory now restored to Italian administration.

TO : Ministro della Real Casa.

1. Following the conversation which took place on Monday, 31st December, between Marchese MACILFRO and Lt. Col. HARRINGTON, you will find as agreed, and under separate cover, the files of cases where persons sentenced to death by the Extraordinary Courts of Assises of Northern Italy have lodged petitions for mercy. The Chief Civil Affairs Officer has not taken any decision on these petitions.
2. The Chief Civil Affairs Officer, after obtaining the verbal agreement of the Minister of Justice has committed three sentences. They are those of MAURO CAPPILLINI of VERVISO, GIUSEPPE BATTINI of VIGEVANO, and SANTE SOTTO of ASPI. The files of these cases are also forwarded to you under separate cover.
3. As explained to you by Colonel HARRINGTON, the Chief Civil Affairs Officer believes that the powers of mercy being vested in the Sovereign under Article 8 of the Statute, it was the proper procedure to forward to the Sovereign who reserves his powers and functions, such cases as would normally under international law come within his jurisdiction.
4. The Chief Civil Affairs Officer did not feel that it fell within his province to ascertain whether or not under Italian constitutional practice, some other procedure should have been followed, especially in a case, which, as far as this Sub-Commission is aware, has no precedent in international law. Furthermore in view of the short time left there was no doubt that the decision taken was the most practical.
5. After discussing the matter with you Colonel HARRINGTON

785017

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

3. As explained to you by Colonel HAMMOND, the Chief Civil Affairs Officer believes that the power of mercy being vested in the Sovereign under Article 8 of the Statute, it was the proper procedure to forward to the Sovereign who resumes his powers and functions, such cases as would normally under international law come within his jurisdiction.

4. The Chief Civil Affairs Officer did not feel that it fell within his province to ascertain whether or not under Italian constitutional practice, some other procedure should have been followed, especially in a case, which, as far as this Sub-Commission is aware, has no precedent in international law. Furthermore in view of the short time left there was no doubt that the decision taken was the most practical.

5. After discussing the matter with you Colonel HAMMOND called on Signor TOMIATTI and explained the considerations which had prompted the Chief Civil Affairs Officer's action. The Minister of Justice has accepted the Chief Civil Affairs Officer's view as set out in the preceding paragraph.

6. A list of petitions and the opinion of the Legal Sub-Commission on each of them is also enclosed. As pointed out to Signor TOMIATTI and yourself the Allied authorities do not consider such opinions as binding or either the Luogotenente or the Minister of Justice.

G. G. Hammond

G. G. HAMMOND, Lt Col.,
Deputy Chief Legal Advisor.

Copies to:- Minister of Justice (With Legal opinions)

- ATTN. G-5.
- Chief Commissioner.
- Executive Commissioner.
- Poland 'A' and (B).

Spicer
(over)

See M. 60

785017

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

3. As explained to you by Colonel HANNAFORD, the Chief Civil Affairs Officer believes that the powers of mercy being vested in the Sovereign under Article 8 of the Statute, it was the proper procedure to forward to the Sovereign who reserves his powers and functions, such cases as would normally under international law come within his jurisdiction.

4. The Chief Civil Affairs Officer did not feel that it fell within his province to ascertain whether or not under Italian constitutional practice, some other procedure should have been followed, especially in a case, which, so far as this Sub-Commission is aware, has no precedent in international law. Furthermore in view of the short time left there was no doubt that the decision taken was the most practical.

5. After discussing the matter with you Colonel HANNAFORD called on Signor TOMLIATTI and explained the considerations which had prompted the Chief Civil Affairs Officer's action. The Minister of Justice has accepted the Chief Civil Affairs Officer's view as set out in the preceding paragraph.

6. A list of petitions and the opinion of the Legal Sub-Commission on each of them is also enclosed. As pointed out to Signor TOMLIATTI and yourself the Allied authorities do not consider such opinions as binding or either the Immediato or the Ministero of Justice.

G. E. Hannaford

G. E. HANNAFORD, Lt Col.,
Deputy Chief Legal Advisor.

Copies to: Minister of Justice (with Legal opinions)

AFHQ. G-5.
Chief Commissioner.
Executive Commissioner.
Polad 'A' and (B).

af
(10713) 51541

1682

785017

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

2609

76

HQ ALCOM

29 DEC 1945

AFHQ, G-5

DEC 21 1945

9738

RESTRICTED

(70)

PARA ONE PD MATTER IS PETITION FOR MERCY IN DEATH SENTENCES OF EXTRAORDINARY COURTS OF ASSIZE PD IN A LETTER DATED TWENTYTWO DECEMBER COPY OF WHICH IS BEING FORWARDED TO YOU MINISTER OF JUSTICE EXPRESSES IDENTICAL VIEWS AS SET OUT IN LETTER ABLE CHARLIE SLANT FOUR ZERO NINE TWO SLANT ONE SLANT L OF TWENTYFIRST DECEMBER PD CONSIDERING ATTITUDE ADOPTED BY ITALIAN AUTHORITIES THEMSELVES IN THIS MATTER I PROPOSE TO EXERCISE FORTHWITH THE POWERS OF MERCY VESTED IN ME AS CHIEF CIVIL AFFAIRS OFFICER IN ALL EXTRAORDINARY COURTS OF ASSIZE CASES NOW PENDING EXACTLY AS IF SENTENCES HAD BEEN PRONOUNCED BY AMG COURTS PD AS YOU ARE AWARE THIS IS IN COMPLETE CONFORMITY WITH ACCEPTED INTERNATIONAL LAW ON WHICH MINISTER OPINION IS BASED

4351

PRIORITY
Legal Sub Commission

1683

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

785017

2609

74

21 December 1945

DEC 27 1945

My dear Mr. Prime Minister:

I enclose herewith a copy of my opinion on the Schio Massacre Case in which, for the reasons stated therein, I have commuted the three death sentences imposed to sentences of imprisonment for life.

Because of the brutal and shocking nature of this crime, the Italian Government is requested to grant no future general or individual amnesty to these prisoners.

Very truly yours,

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Dr. Alcide de Gasperi
The President of the Council of Ministers
Italian Government
Rome

X | NOTE to Executive Commissioner: It is directed that a copy of the above letter be attached to the official commutation forms and duly recorded so that my position in this matter will permanently be attached to the prisoners' records in these cases.

E.W.S.

CC DIST: Exec Commr
VP CA Sec
Chief Legal Adviser

See M. 4350

(cso)

HEADQUARTERS ALLIED COMMISSION

20 December 1945.

THE SCHIO MASSACRE CASE

1. At midnight, on 6 July 1945, fifty-four persons confined in the Schio jail were put to death in the prison by gunfire from automatic weapons in the hands of masked men. Seven members of the auxiliary police of Schio and ex-partisans were arrested and tried before an Allied Military General Court sitting at VICENZA, on 13th September 1945. The Court acquitted two of the accused and sentenced two to life imprisonment and other penalties; three of the accused, namely, FRANCESCHINI Renzo, FOCCHESATO Antonio AND BORTOLOSO Valentino were found guilty of murder of fifty-four persons and were sentenced to death.

2. The three death sentences were brought before me as Chief Civil Affairs Officer of Occupied Territory under Allied Military Government, Italy, for confirmation in pursuance to the established procedure. On review of the record of the trial, I am fully satisfied that the accused have received a full and fair trial, and that the sentences imposed were well founded.

785017

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

2. The three death sentences were brought before me as Chief Civil Affairs Officer of Occupied Territory under Allied Military Government, Italy, for confirmation in pursuance to the established procedure. On review of the record of the trial, I am fully satisfied that the accused have received a full and fair trial, and that the sentences imposed were well founded.

3. The massacre committed at Schio was of such a nature as to put those responsible beyond consideration of clemency.

4. However, I feel bound to take into consideration the following facts:-

4349

- (a) The fifty-four men and women murdered in the Schio jail were Italian men and women.
- (b) The convicted murderers were Italian men.
- (c) The law which they outraged and under which they were charged and sentenced by the Allied Military court was Italian law.
- (d) The crime which they committed was a crime against Italian sovereignty.

- 2 -

(e) The accused were not sentenced to death for violation of any order of the Military Governor.

5. Italy in 1889 was among the first nations of the world to abolish the death penalty. The abolition of the death penalty is not exclusively an Italian legal concept. In Switzerland, and even in the United States in certain states where the law is purely of Anglo-Saxon origin, the death penalty cannot be imposed. The banishment of capital punishment became a firmly established principle in Italian pre-fascist legislation. It remained so until the advent of fascism. The Penal Code of 1930 enacted during Fascist rule re-introduced the death penalty as a typical innovation serving the new regime, thus breaking the tradition of pre-fascist Italy. The first Bonomi Government passed the decree of 10 August 1944 once again abolishing capital punishment as a general form of punishment under the Penal Code.

6. At that time Allied military operations in Italy were in full progress, most of Northern Italy was in enemy hands, and this decree was therefore not implemented by Allied Military Government in Northern Italy. As a result, the three accused in the present case were correctly charged and sentenced to death under the original and unamended text of the Penal Code. However,

1944 once again abolishing capital punishment as a general form of punishment under the Penal Code.

6. At that time Allied military operations in Italy were in full progress, most of Northern Italy was in enemy hands, and this decree was therefore not implemented by Allied Military Government in Northern Italy. As a result, the three accused in the present case were correctly charged and sentenced to death under the original and unamended text of the Penal Code. However, had the accused been charged with the same offense in territory restored to the Italian Government, they could not have been so sentenced, even in an AMG court. Similarly, the death sentence in this case could not have been confirmed by me had the Northern Regions been restored to Italian Government administration by this date.

7. In deference to the pre-fascist concepts of punishment under Italian law, which the present Italian Government has re-affirmed, because I consider that military authorities governing under the law of occupation in a civilized state are but custodians of its fundamental legal institutions, and because I do not conceive it to be Allied policy toward Italy to override Italian basic concepts of justice with respect to a civil crime

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

- 3 -

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committed by Italians against Italians, regardless of how such a crime would be dealt with in Allied countries, the death sentences against FRANCESCHINI Renzo, FOCESATO Antonio and BORTOLOSO Valentino are modified to sentences of imprisonment for life. Because of the nature of the crime, it is my intention to request of the Italian Government that no future general or individual amnesty be applied to these prisoners.

(s) Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Civil Affairs Officer

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

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NO/1052/1/1.

22 December 1945

DEC 22 1945

SUBJECT : Petition for mercy in death sentences pronounced by Extraordinary Courts of Assize in AMG territory.

TO : AMHQ (Attor G-5 Section).

1. With reference to your F 55507 of 3 December 1945 it appears that the instruction contained therein may have been issued under some misapprehension and probably without full knowledge of the present petition.

2. Under Italian law the power of pardon is a privilege of the Head of the State and is at present vested in the *Legonente*. The role of the Minister of Justice is to recommend that a petition for mercy be granted or denied. The decision of the *Legonente* is by no means automatic. It may very well be contrary to the Minister's opinion, although, more often than not his opinion is followed.

3. Sig. TONINELLI, the present Minister of Justice takes the view that in AMG territory the powers and functions of the crown are suspended and vested in SAC or his representatives. Therefore, when a petition for pardon reaches his office, he studies the record, makes up his mind and forwards the whole case with his opinion (either favourable or not) to the OASO for decision. Sig. TONINELLI considers that his role ends there.

4. On a number of occasions, when there existed some doubt as to the regularity of the proceedings, and the Legal Sub-Commission decided to refer the matter to the Minister, Sig. TONINELLI's answer has invariably been "I have given my considered opinion, it is up to you to follow it or not. My function is purely advisory."

5. Therefore when confirming a death sentence pronounced by an Extraordinary Court of Assize of Northern Italy, we are not rendering executive or ministerial order, but are in fact taking an independent decision in each case. Furthermore by simply endorsing the Minister's "opinion" the Allied authorities do not accomplish the act of discretion which the granting or denial of a petition for mercy is supposed to represent.

See File 76

4347

See M. 71

(MISS 5)

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

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6. I should also like to indicate that my legal advisors often disagree with the Minister's opinion, as it appears to be based on political as well as on legal grounds. For instance death sentences of individuals have been commuted. The acknowledged fact that witnesses were prevented from appearing and defense counsel could not make himself heard has not convinced the Minister of the desirability of a new trial. There is a case where the Methodist Church of America have requested the commutation of a sentence on grounds which my legal advisors consider relevant. There are other instances where the death penalty appears to be an excessive punishment for the offense committed, especially considering the general attitude adopted by the Italian authorities in similar cases where, however, no political questions are involved.

7. Finally I should like to make it clear that the Italian judicial authorities are never unaware of the conditions in which trials take place. They are much more "au fait" with the circumstances of each case than we are. There is therefore no question of new elements being disclosed by us to the Minister in the hope that he may change his mind even after he has given his opinion.

8. In view of the above I should be grateful if the instructions contained in your Z 55357 of 3 December 1945 be revised and my recommendations contained in signal 5523 of 1 December 1945 given further consideration.

18/12/45

ELMER W. SPENCE,
Rear Admiral, USNR,
Chief Commissioner.

Copies to: Executive Commissioner,
VCA Sec.,
Polad (A),
Polad (B).

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

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ENC. 121030A

DBP. 131200

AMC LIGURIA REGION SIGNED NEWFORD

PRIORITY

ADCOM CITE ACPST

~~SECRET~~

DEC 13 1945

SECRET.

Information received that owing to delays in confirming death sentences on political prisoners condemned by ~~xxxxxx~~ Courts of Assize strong attempts are likely to be made to ~~smx~~ enter the goals for the purpose of summarily executing such prisoners.

Considerable discontent expressed at delays.

Some cases sentenced in August. Precautions have been taken but urgently request confirmation of sentence or otherwise by the Italian Government.

AC DIST

ACTION : LEGAL SC
INFO : CHIEF COMMISSIONER
EXEC. COMM.
S A SEC
PUBLIC SAFETY SC
FILE 3
FOOT -

See 81

RECEIVED

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~~SECRET~~

13:25

1945

(APP 12) 28/11/45

1692

Declassified E.O. 12356 Section 3.3/NND No. 785017

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: F 55307
Date/Time of Origin: DEC 031731A

Message Centre No: G/4821
Date Time Rec'd: DEC 040900A
Precedence: PRIORITY

FROM: AFHQ SIGNED SACRED CITE FHGEE
TO : ACTION: ALGOM ROME

DEC 4 1945

SECRET

SECRET.

REUR 8923.

Para 1. These special courts of Assize sanctioned by AMG in order to permit Italian law and Italian courts to handle cases of this type.

Para 2. Recommendation that handback to Italian jurisdiction of Northern Provinces be authorized founded on confidence in Italian administration.

Para 3. Consistent and forthright policy in accordance with purpose stated in Para 1 above believed less likely to result in placing Allies in bad light publicly than your proposed policy of intervention.

Para 4. There is no objection to advising Ministry of Justice in suitable case that not withstanding your policy of following their recommendations you wish to indicate that if the cases were for AMG determination a new trial would be ordered for stated reasons and requesting the Ministry to reconsider its recommendations.

Para 5. It is not thought necessary to broaden our FA 53687 November 19.

DIST

LEGAL S/C.

ACTION: ~~LEGAL COMMISSIONER~~

INFO: EX COMM.

INFO: CHIEF COMMISSIONER.

LEGAL S/C

C A SECTION

FILE

702133(3) 13/1/46

SECRET

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

785017

22 DOWNING 1563

4. With reference to your 7/25/57 letter it appears that the Bureau is not aware of any such investigation and would not be able to advise the Bureau as to whether or not the Bureau is aware of any such investigation.

[illegible]

3. The above information is being furnished to you for your information and is not to be used for any other purpose. It is to be kept confidential and is not to be disclosed to any other person without the express written consent of the Bureau of the Census.

[illegible][illegible]

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785017

6. I should also like to indicate that my legal advice often disagrees with the Minister's opinion, as it appears to be based on political as well as on legal grounds. For instance, with reference to the fact that it has been suggested that the Government should not intervene and prosecute the Government and Defense counsel could not take itself too far. It suggested the Minister of the Government to be present at the trial. There is a case where the Minister of Justice has suggested the prosecution of a defendant on grounds which my legal advice considers irrelevant. There are other instances where the Minister's opinion seems to be an excessive punishment for the offense committed, especially considering the general attitude adopted by the public authorities in similar cases, however, no political questions are involved.

2. Finally I should like to add it often that the Italian judicial authorities are never aware of the conditions in which trials take place. They are used only "in fact" with no circumstances or even made them as are. There is therefore no question of any elements being discussed by us to the Minister in the hope that in any change the mind even after he has given his opinion.

8. In view of the above I would be grateful if the investigations contained in your 7 OCT 57 of 3 number 1215 be revised using information contained in signal 1923 of 4 November 1957 given further consideration.

W. J. Kling, V. Stone

WILLIAM H. BROWN,
Special Agent, FBI,
District Headquarters.

10/20/2019 10:20:20 AM
 10/20/2019 10:20:20 AM
 10/20/2019 10:20:20 AM

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

~~SECRET~~

59

AFHQ

8923

1 DECEMBER 1945

PRIORITY

DEC 2 1945

SECRET PD

YOUR FOX XRAY FIVE THREE SIX EIGHT SEVEN OF NINETEEN NOVEMBER CITE FHOFG
PD

PAREN TO AFHQ FROM HQ ALCOM FROM ADMIRAL STONE CITE ACSCC PAREN

I AM CONCERNED ABOUT THOSE CASES IN WHICH THERE IS EVIDENCE THAT DUE PROCESS
OF LAW IS NOT ALWAYS FOLLOWED IN ASSIZE COURTS PD WITNESSES AND COUNSEL FOR
DEFENDANTS HAVE ON OCCASION BEEN THREATENED AND DEFENSE COUNSEL NOT PERMITTED
TO PRESENT THEIR CASE PD IN OUR OPINION MINISTER OF JUSTICE TOGLIATTI HAS
NOT ALWAYS GIVEN ADEQUATE WEIGHT TO THESE FACTS PD IN SOME CASES IT SEEMS TO
US CLEAR THAT NEW TRIALS SHOULD BE ORDERED PD

PARA TWO PD SINCE SUCH CASES COULD NOT BE FORWARDED TO AFHQ UNDER PARA TWO OF
YOUR FOX XRAY FIVE THREE SIX EIGHT SEVEN MY CONCERN IS THAT AMG AND ALLIES
WILL BE PLACED IN BAD LIGHT PUBLICLY FOR PERMITTING IN AMG TERRITORY THE
EXECUTIONS OF PERSONS WHO HAVE NOT BY OUR STANDARDS HAD FAIR TRIALS PD
PARA THREE PD MAY PARA TWO OF YOUR FOX XRAY FIVE THREE SIX EIGHT SEVEN
THEREFORE BE BROADENED TO AUTHORIZE ME AS YOUR CHIEF CIVIL AFFAIRS OFFICER
TO ORDER NEW TRIALS WHERE THERE IS REASONABLE DOUBT THAT DUE PROCESS OF LAW
HAS BEEN FOLLOWED

Chief commissioner

222

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

DISTRIBUTION

Legal S/C
Exec Comm
CA Section
CC

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SECRET

(CAPT B) 3/12

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

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Free Power

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G/3931

Nov. 200900A

IMPORTANT

AFHQ SIGNED SACRED CITE PHGEG.
ALCOM ROME

NOV 20 1945

SECRET.

REF YOUR AC4030/1/L NOVEMBER 3. POWER TO PARDON PERSONS SENTENCED TO DEATH BY ITALIAN COURTS IN ANG IS SUBJECT.

- 1°) EXCEPT IN CASES COVERED BY FOLLOWING PARAGRAPH THE POLICY OF THIS H.Q. IS TO TAKE NO ACTION EXCEPT ON ADVICE OF MINISTRY OF JUSTICE.
- 2°) WHERE ALLIED FORCES HAVE KNOWLEDGE OF FACTS NOT KNOWN TO ITALIAN COURT OR MINISTRY OF JUSTICE AND MISCARRIAGE OF JUSTICE IS IMMINENT YOU WILL FORWARD THE APPEAL TO THIS H.Q. TOGETHER WITH THE VIEWS OF THE MINISTRY OF JUSTICE AND A STATEMENT OF THE FACTS NOT KNOWN ITALIAN AUTHORITIES AND YOUR RECOMMENDATIONS.

A.C. DISTRIBUTION.
 ACTION - LEGAL S/C
 INFO - C. COMMISSIONER
 EX. COMMISSIONER
 C.A. SECTION
 FILE

HEAVY WEIGHTS

A. C.

~~SECRET~~

See in 56, 57, 58

See 59

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(CPT CRAYDOCKE) QBS 2014

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

SEGRETERIA DI STATO
DI S. SANTITA.
No. 104458/SA

Dal Vaticano, li October 5, 1945

OCT - 5 1945

The Secretariat of State of His Holiness has been requested to invoke the good offices of His Excellency Admiral Stone in recommending to the Italian Authorities the commutation of the death sentence decreed for BRUNO CAPPELLINI by the Tribunal of Treviso. A pro-memoria submitted in defense of Sig. Cappellini is herewith enclosed.

12

See 7/6/54

BU 15/10 ERB
10/10

RE DIST - 8 Oct 45

Action : C.A. Sec (2)
Info : Chief Comm
Exec Comm

4339

His Excellency
Rear Admiral E.W. STONE
Chief Commissioner
Allied Commission
Via Veneto, ROME.

El Webb
209

(enclosure)

(enclosure) 10/10

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

Translation

Memorandum forwarded by Mrs Lina Biondi, living in Rome, via degli Scipioni, 276
Tel. 90982

Request for the commutation of the death sentence decreed for C. CAPPILLINI Bruno,
former Deputy Commander of the 'Cavallino' Black Brigade (Treviso Province)

1. CAPPILLINI was sentenced to death by the Treviso Court, which refused to commute the sentence. Bruno CAPPILLINI's brother, Massimo, was murdered by the Treviso partisans; the husband of his sister, Vittorina CAPPILLINI MARMORA, died in a concentration camp, for he refused to acknowledge Nazi-fascism.
2. From the documents of the trial, it appears that Cappellini Bruno only carried out superior orders, assuming the full responsibility of the consequences, and thus discharging all the men under his orders from any responsibility, for they were simply the instruments of the executions.
3. According to the prosecutors general, the proofs of all the charges against Cappellini haven't convinced the Court that such charges were true.
4. From some documents which were obtained after the verdict had been pronounced and confirmed, it appears that Dr. CARLO MASCAGNINI, leader of the Castelfranco partisans, was spared thanks to the courageous intervention of Cappellini.
5. Besides, six partisan prisoners were saved by Cappellini Bruno, as it was proved during the trial.
6. Two more partisans, FIORIN Alberto and VIERA Riccardo, telegraphed to the Minister, saying they owed their life to Cappellini and asking for the death sentence to be commuted.
7. There is absolutely no evidence that Cappellini ever tortured people.
8. The crimes committed by his brother, Massimo Cappellini, killed by the partisans, were often attributed to Cappellini Bruno, as from the statements of Dr. ENZO MARTINI, head of the volunteers of Freedom Unit in Treviso.
9. With the documents, there is a statement signed by VIERA Riccardo, saying that he had been condemned to death by the Nazi-fascists, together with MORTO Ullino, MORTO Adriano, and FIORINI Mario, all members of the Garibaldi Brigade of the 3. Infantry of Massiano, and that they were saved by the personal intervention of Cappellini Bruno.

Should you kindly decide to intervene, the requests for the commutation of the sentence must be sent to Admiral Stone, Chief of the Allied Commission in Italy and also for the attention of the British and American Ambassadors.

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

- 2 -

The documents of the trial and the verdict have been sent to the Allied Commission, legal sub-commission, which is supposed to forward them to have them carried out, and is temporarily keeping them, to wait for the result of these last steps.

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

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ALLIED FORCE HEADQUARTERS
APO 512

AO 614.53 GEC-0

4 October 1945

SUBJECT: Confirmation of Death Sentences

TO: Chief Commissioner
Allied Commission
APO 394

OCT - 6 1945

25

1. In accordance with letter of Field Marshal ALEXANDER, dated 15 December 1944, of which a copy is annexed hereto, the power to confirm sentences of death imposed by Allied Military Courts was delegated to Ellery W. STONE, Rear Admiral USN, Chief Commissioner of the Allied Commission.

2. The said delegation will continue in full force and effect until revoked by authority of the Supreme Allied Commander.

BY COMMAND OF THE ACTING SUPREME ALLIED COMMANDER:

C. W. CHRISTENBERRY
Colonel

C. W. CHRISTENBERRY
Colonel, AGD
Adjutant General

1 Incl
Ltr, from Field Marshal
ALEXANDER to Ellery W. STONE,
dated 15 December 1944 (copy)

May with Capt. S. K.

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(C. W. Christenberry) 208 8/10

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

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10/1092/2/1

20 September 1945

SEP 20 1945

My dear Mr. Prime Minister:

I have to acknowledge your letter of 12 September 1945 in which you press for quicker action for the execution of persons sentenced to death by the extraordinary courts of justice. I entirely agree with you that this problem is a matter of the highest importance in securing good order in N. Italy; in fact I have already written to you on 12 July 1945 in order to speed up the existing procedure.

I was however so surprised by the suggestion, contained in your letter, that the legal sub-commission was responsible for the delay that I have had a full enquiry into the position.

As you are aware the sole concern of the legal sub-commission is to obtain from the Minister of Justice his opinion on each case as soon as possible, and for that purpose to provide the Minister with the necessary documents at the earliest possible date. The Minister himself laid down, in a Ministerial Circular, exactly what documents are required for his examination of each case, and this Circular has been given full effect in the territory and is scrupulously followed.

I should, I think, explain that the Minister stated that for normal cases he could only receive the "sentenza" of the court of first instance and the court of cassation, together with the reports of the public ministers on the merits of the petition. He specifically stated that he did not normally require a copy of the "istruttoria" into the merits of the case, since he realized the length of time that would be needed for the production of such a copy. If he needed to read the "istruttoria" in any particular case he would ask for it specifically.

The situation is that so far 270 death sentences have been pronounced by the courts of first instance in N. Italy. Of these, 122 have been confirmed by cassation. Of the remaining 148, some have been varied in appeal and others are still pending in cassation. The Minister has already requested the "istruttoria" in no less than 124 cases. This of course causes considerable delay, first in the time taken by the Minister to decide that he requires the "istruttoria," and secondly in the preparation of the necessary documents, which are usually of very considerable length. These documents can only be prepared by the public ministers of the court of first instance, where, as you know, there is a great shortage of staff. However, of these 124 cases the "istruttoria"

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(As Kennedy) 2/10/46

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

has already been supplied in 39. The total number of cases in which the Minister of Justice has expressed his opinion is 29, and in each of these he has retained the papers from 2 to 4 weeks before making his recommendations. In some cases he has been in possession of the papers for over a month and has not yet expressed any view.

Finally I would like to draw your attention to the position in Milan Region. 22 death sentences imposed in that Region had been confirmed by Cassation and were in the hands of the Minister of Justice by 4 August 1945. Although this territory has been under Italian administration for over 6 weeks the Minister has only been able to give a decision in one of these 22 cases up to this time.

I feel sure that you will agree that, in these circumstances the delay rests entirely with the Italian procedure and I must repeat, my dear Sir, Minister, the request contained in my earlier letter for a procedure to be devised by the Italian Government which will produce quicker results.

Yours very truly,

W. H. Stone Ellery W. Stone

WILLY H. STONE,
Rear Admiral, USNR,
Chief Commissioner.

Prof. Ferruccio Parri
The President of the Council of Ministers
Italian Government
Rome

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

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Translation

The President of the Council of Ministers

427/8664

Rome, 12 September 1945

Dear Admiral,

the Minister of Justice pointed out to me that matters are getting rather difficult in some provinces, for the condemnations to death pronounced by the 'Corti di assise straordinarie' are not being carried out, or only in small part.

Most of this delay is due to the fact that the Department of Justice is not able to express its opinion on the appeals for grace which it receives, for it doesn't have the necessary documentation about the trial, which it must receive through the channel of the allied authorities.

I shall be most grateful, my dear Admiral, if you kindly intervene with the competent offices of the Legal Sub-Commission, to have the said documentation forwarded more rapidly to the Department of Justice. This will enable the Ministry to give its opinion without delay about the pending appeals for grace, and quiet down a discontent about the executions which do not take place as well as about acts of clemency postponed too long, that might grow dangerous.

Believe me,

Truly yours,

S. Ferruccio Parri

Admiral Ellery W. Stone
Chief of the Allied Commission
Rome

SEE F49

trans. e/c

EE Dist - 14 SEP 1945 4332

Action: C. H. SEC (2)

INFO: 1. CHIEF COMINT
EXEC COMINT

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(Handwritten signature)

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

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Translation

The President of the Council of Ministers

EM

427

Rome, 20 July 1945

JUL 26 1945

Dear Admiral,

reference your letter, AO/4092/J/L of the 12th,
I am happy to tell you that I asked the Minister of Justice
that the opinion asked by the Military Governor on the appeals
be given without delay.

Truly yours,

B. Ferruccio Parri

Admiral Ellery W. Stone
Chief of the Allied Commission
Rome

E. C. DIST-25 JULY 45

ACTION : CHIEF LEGAL ADV

INFO : CHIEF COMINT

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

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2609 *Be. Sena*

REPUBLICAN ARMY COMMISSION
Civil Affairs Section
ASO 224

Ref: 47007-570

July 1945

ASO/14413/20

ADMINISTRATION OF DEATH SENTENCES. JUL 1 1945

TO: SAC'S Emilia, Liguria, Lombardia, Piemonte,
Venetia, Naples, Ancona, Livorno
(Attention of ASO's)
FROM: L.A. 14413, Italy, Legat, Legat
Dz. Rom, ASO, Ministry of Interior
(for information)

1. The following instructions are forwarded in order that you may be aware of the procedure to be adopted in any territory, if an Italian Civil execution has to be carried out.

2. Under Italian Law, where a sentence of death is imposed by an Italian court, the execution of the death sentence is regulated by the Code of Criminal Procedure Art. 540. The procuratore General of the Court of Appeal concerned is instructed by the Minister of Justice to carry out the execution and he is solely responsible for the necessary arrangements.

3. The actual physical execution is carried out by one or other of the following forces:

- Carabinieri
 - Agents of Public Security
 - Guardia di Finanza
 - Italian Army
- It is the practice that each force is called

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Under Italian law, where a sentence of death is imposed by an Italian court, the execution of the death sentence is regulated by the Code of Criminal Procedure, Art. 50. The Procureure General of the Court of Appeal concerned is instructed by the Minister of Justice to carry out the execution and he is solely responsible for the necessary arrangements.

The actual physical execution is carried out by one or other of the following forces:

- Carabinieri
- Arms of Public Security
- Guardia di Finanza
- Italian Army

It is the practice that each force is called on in turn to perform the duty.

In the Carabinieri, the Procureure General will normally receive his instructions through A.G. channels and not from the Minister of Justice. Apart from this the normal procedure will be employed and the Procureure General will be solely responsible for the execution.

When the death sentence is imposed by an A.G. Court and confirmed by the Chief Commissioner, similar arrangements will be made for execution, except in security cases where a British or American military firing party will be made available.

The Questore, acting under the orders of the Prefect, details the execution party and makes the local arrangements. The duties of the officers of A.G. are to ensure as far as possible, that public order and safety are not endangered, especially in cases where the accused has been sentenced by an A.G. Court.

[Handwritten signatures and stamps]

18 Oct 1947

18 Oct 1947

18 Oct 1947

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

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AC/40921/L.

12 July 1945.

JUL 12 1945

My dear Mr. Prime Minister,

I would like to bring to your attention the delays which are occurring in the execution of death sentences imposed in North Italy by the Extraordinary Courts of Assize. Much of this delay arises after dismissal of the appeals by the Court of Cassation, as a result of petitions for grace filed by the condemned prisoners.

The decision on these petitions naturally rests, under international law, with the Military Governor and is taken by the Allied Commission on his behalf. Before taking such decision I am anxious to obtain the advice of the Minister of Justice on the petitions in order to conform in all respects with the principles of Italian law.

I know that the Minister of Justice is as anxious as I am to secure an early decision in these cases, which I feel to be necessary in the interests of public order in the north and for the prevention of further episodes in the prisons where Fascists are confined. I should be grateful however if you would point out to the Minister of Justice my personal interest in this matter and my hope that he will be able to devise a procedure which will enable my final decision to be taken in a shorter time than has been found possible up to now.

Yours very truly,

/s/ Ellery W. Stone

ELLERY W. STONE,
Rear Admiral, USNR,
Chief Commissioner.

Professor Ferruccio Parri,
The President of the Council of Ministers,
Italian Government,
ROME.

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

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[Handwritten signature]

9 July 1945.

MEMORANDUM TO: Chief Legal Advisor.

JUL 10 1945

Thank you for your memorandum AC/4092/1/L of 7 July 1945, with which I concur.

My only concern is with the delays which you are experiencing in securing the opinions of the Minister of Justice. Because of the inevitable result of such delays, I think it extremely important that this question be brought urgently to the attention of the President of the Council, and for this reason I should like you to draft a letter for my signature explaining our position in the matter and the need for securing more prompt action from the Ministry now headed by Minister Togliatti.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

cc: Exec. Comm'r. *[Handwritten checkmark]*

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(Res. Norden)

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

HEADQUARTERS ALLIED COMMISSION
130 04
LEGAL SUB-COMMISSION

AS/4092/1/L.

7 July 1945.

MEMO

To : Chief Commissioner.

1. I feel that I should draw to your attention your position in regard to death sentences imposed by the Extraordinary Courts of Justice.

2. Under Italian law a petition for grace to the King lies in any case where a death sentence is imposed. The international law the King's prerogative in these matters is vested in the Military Governor.

3. In the early days of AMV, the Military Governor delegated to the Chief Commissioner the right to grant or refuse the Royal pardon in all cases arising in Italian courts in AMV territory. This right was delegated by General Ronch Fecarione as Chief Commissioner to the Chief Legal Officer and in fact I have been exercising it on your behalf in innumerable cases, other than death sentences, arising in the Italian courts every day. I consult the Minister of Justice in the same way as the King would do and I follow his advice so that there is no moral responsibility whatever.

4. Until the institution of the Extraordinary Courts of Justice, it has never been necessary to consider a death sentence imposed by the Italian Courts. My own view is that the present position should continue and that I should formally ask the Minister to give you his advice on these cases and that on your behalf I should follow the advice and give the necessary orders. Naturally if in any particular case the Minister recommended confirmation of the death sentence and there was some particular fact which I thought should be brought to your notice I would bring it.

5. One of the factors which is most important in these cases is that there should be no delay in the carrying out of death sentences which are approved by the Minister. Up to date the courts have imposed some 50 death penalties and it was only two days ago that I received the first opinion of the Minister of Justice. The people of the North are becoming extremely restless at the delay and anything which tends to slow down the execution will have an extremely bad effect.

6. I do not think that there is any necessity to approach AMV in this matter, more particularly because of recent experiences there have

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

been that prolonged delays occur before an answer is received and I am particularly anxious to avoid delays in this matter. I do not myself see any difficulty nor do I think that you are incurring any moral responsibility since you are in exactly the same position as the King, following the advice of the Minister of Justice; I thought however that this should be brought to your attention since you are probably unaware of this situation.

/s/ W. H. BENTLEY,
Colonel,
Chief Legal Advisor.

4326

00 2602

30 May 1945

JUN 1 1945

Subject: Commutation of Death Sentences

To: Deputy Chief Legal Advisor, Legal Sub-Commission.

MEI Ugo Ezio
BENDANDI Leopoldo
VASCONI Giorgio
FALCONI Mario
LO VASTO Vincenzo

1. The above named persons have been convicted by Allied Military Courts and sentenced to death for espionage committed before the conclusion of hostilities in Italy.

2. I have decided that in all such cases the death sentences should be commuted and I accordingly authorize you to review these cases, commute the death sentence and, if you affirm the conviction, impose an appropriate term of imprisonment.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

cc: Ex. C.

4325

1712

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

785017

~~SECRET~~

39

EX 62509
APRIL 21/17518

CONFIDENTIAL

0/8531
APRIL 22/09708
ROUTINE

ATTN: BUREAU OF THE ARMY
ACTION: ALGON, ROE AREA COMMAND

APR 22 REC'D

CONFIDENTIAL

SECRET.

See ALGON cable 5079 of 14 April for reference and letter Allied Force 18
January 1945, execution of convicted persons, AG 014.53/047000-0. Subject:
execution of 11 100 0000. Commanding General ROE Area Command will be delegated
authority to conduct execution if sentence is confirmed and he will designate a
UNITED STATES Military Police Unit under his command for this purpose under the
immediate supervision of the UNITED STATES Provost Marshal. Original confirmation
of sentence and certified copies of delegation of authority to confirm sentence
and other necessary documents will be presented direct to OI ROE AREA COMMAND,
who will cable this headquarters, attention Provost Marshal General, that such is
an order and indicate unit designated to carry out execution, upon receipt of this
information specific instructions to conduct execution will be issued. Procedure
for execution will be substantially as announced in the DEPARTMENT Pamphlet 27-4,
procedure for military executions, dated 12 June 1944. Addressee acknowledge re-
ceipt this message.

PA 21/17518

~~CONFIDENTIAL~~
~~SECRET~~

4324
ACTION: IMMEDIATE
INFO: A/PROVOST
QUARTERS
22 APR 1945
EX COMMISSION
EX COMMISSION
FILE (2)
PLANT

1713

785017

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

2609

~~SECRET~~

E/265
APRIL 13/1045B

E/7619
APRIL 14/1000
IMPORTANT

ALC EMILIA REGION

FOR INFORMATION ONLY

HQ AICOM

APR 14 REGD

SECRET.

BENDANO LEOPOLDO and VASCONI GIORGIO sentenced to death by General Military Court at RICCIONE on 12 April. Accused held at RAVENNA prison

HEADQUARTERS
14 APR 1945
A. C.

DIST

ACTION : LEGAL IC

INFO : A/PRESIDENT
CHIEF COMMISSIONER
EX COMMISSIONER
CA SECTION
FILE (2)
FLOAT

PA Sh

~~SECRET~~

4323

PA
4/14

1714

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

SECRET

2609

FC008

MAN 071045

D/4522

MAN 082130A

ROUTINE

From: CO HQ FLORENCE COMMAND (USC)
To: CG AFHQ ATTENTION PROVOST MARSHAL GENERAL INFO ALCOM

MAR 9 1945

SECRET.

Subject is execution of enemy agent, reference DEAD EX 39005 dated 6 March.
Cite NAME MAGAP FROMG. Sentence of death by musketry in the case of SEMINO
FRANCO was carried out at 0900 hours 7 March ¹⁹⁴⁵ under the direction of the U.S.
Provost Marshal this HQ. Place of burial is TRESKIANO approximately 6
kilometres north of FLORENCE on route 65 coordinate Q835760. Request report
required by para 20, Section 4 S.D. Pamphlet 27-4 dated 12 June 1944 be made
by your HQ. Advise if further information is needed. All pertinent papers
are returned to ALCOM.

FOR INFORMATION ONLY

LIST

INFO-ACTION: Legal S/C
INFO: /President
Chief Commissioner
CA Sec ^{Exec Commissioner}
File 2
Fleet

4322

SECRET

1715

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

785017

²⁶⁰⁷
SECRET

³⁶
by Com

MAR 05 NPT

D 4176
MAR 051500A
IMMEDIATE

Root COLONEL JOHN K WEBER
HQ ALCOM

CONFIDENTIAL

MAR 5 1945

SECRET

PAGLIUCCI RINO DI FRANCESCO convicted of espionage and sentenced to death 5th March confined in Allied wing LE MURATE prison FLORENCE.

List

- Action - Legal SC
- Info - A/President
- Chief Commissioner
- Exec Comm
- CA Sec
- File

FOR INFORMATION ONLY

HEADQUARTERS
MAR 15
A C

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SECRET

PA
6/3

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

2609

~~SECRET~~

EX-004
EX-13/1000

FOR INFORMATION ONLY

D/1762
EX-13/1100
EX-1762

From: DE JIC FLORENCE CORPANT (USC)
To: IN AMIA, INRO: ALCOM.

FEB 14 1945

SECRET.

Subject is execution enemy agent, reference urad EX 25433 dated 12 February. Sentence of death by guillotine in the case of GOTTINI GOSVARD was carried out at 0900 hrs 13 February 1945 under direction of USA Provost Marshal this Hq. Place of burial is TRUPIANO approx 6 km north of FLORENCE on route 65 coordinate 335760. Request report required by para 20, Section 4 of pamphlet 27-4 dated 12 June 1944 be made by your Hq. Advise if further information is needed. All pertinent papers are returned to ALCOM.

DIST

Info-Action: LORAL S/C
Info: PRESIDENT
CHIEF COMMISSIONER
C. G. S.
CR SECT
SECURITY
FILE

~~SECRET~~

MEAL 4319

14 FEB 1945

1717

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

~~SECRET~~

2609

FX 25433
FEB 12 1530A

D/1645
FEB 12 145A
PRIORITY

From: FREEDOM SIGNED SACRED SITE BEPFG NAGAP PHCEG
To: CG PAAC FOR USE INFO ALCON

FEB 13 1945

SECRET.

Subject is execution enemy agent re our radio FX 88873 and your radio FOA/3 in the case of AGOSTINI SCORFEDO. You are hereby delegated authority to conduct the execution this individual at the earliest practicable date pursuant to your announced selection Company A 101 Military Police Bn will perform this mission under the immediate suspension of the U.S. Provost Marshal. Procedure will be substantially as announced in WD Pamphlet 27/4 subject Procedure for Military executions dated 12 June 1944. Render report to this Hq of the execution conducted as soon as possible.

FOR INFORMATION ONLY

Dist

- Info-Action - Legal SC
- Info - A/President
- Chief Commissioner
- C o S
- CA Sec
- P Safety
- File

see 35

~~SECRET~~

RECEIVED
4320
A.

1718

Declassified E.O. 12356 Section 3.3/NND No. 785017~~SECRET~~FX 16973
JAN 291005AC/9853
JAN 291555A
PRIORITY

FROM: AFHQ SIGNED SACRED CITE MAYMC, NAGAP, FHGO
 TO: CG FFAO FOR USC INFO ALCON

JAN 30 1945

FOR INFORMATION ONLY

SECRET.

Subject is execution enemy agents reference ourad FX 88873 and ured 26th January in the cases of MARTINELLI MARTO and BONTI FILIPPO. You are hereby delegated authority to conduct the execution of these 2 individuals at earliest practicable date. Pursuant to your announced understrength selection of Company A101 Military Police Battalion will perform this mission under the immediate supervision of the U.S. Provost Marshall. Procedure will be substantially as announced in W.D. Pamphlet 27-4 Procedure for Military Execution, dated 12 June 1944. Render full report to this HQ of the executions conducted as soon as possible.

DIST

FOR INFORMATION ONLY

INFO-ACTION: Legal
 INFO: A/President
 Chief Commissioner
 C.O.S.
 C.A. Section
 P.Safety
 File

4318

~~SECRET~~

1719

785017

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

~~SECRET~~

JAN 22 1945

2609
209

C/9076
JAN 23 1945
IMMEDIATE

JAN 24 1945

From: CIPHER OFFICE FLORENCE COMBAT
TO: CG FAAC

SECRET.

Reference message FY 85875 from ALIVE FORCE is delivered to you this morning. please amend 9th line to read as follows:
"such is on hand and indicates unit designated to carry out executions."

Command 2-1/8

~~SECRET~~

ACTION: Legal S/C
INFO: P/President
Chief Commissioner
C.O.S.
C.A. Sec
P.Safety
File

PA 2/1/45

PA 4317

~~SECRET~~

26
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785017

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

2609

EMS/jed

31

CC 2602

22 January 1945.

JAN 27 1945

MEMORANDUM TO: Chief Legal Advisor.

In reviewing death sentences, I find that I have great difficulty in both reading and evaluating the transcript, and the time consumed is much greater than it would be if a typewritten copy of the transcript were presented to me for review, together with the original court transcript.

Will you therefore kindly arrange to have a typed copy of the transcript made and submitted with each case.

ELLEAY W. STONE

ELLEAY W. STONE
Rear Admiral, USNR
Chief Commissioner

CC: Staff Officer to CC - Please follow through.

Caf S ✓

PA 46

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PA 46

23/1

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

~~SECRET~~

2609

6892330
C/S

TX88873
JAN 21/15A

C/
JAN 220830A
PRIORITY

From: AFHQ, BUREAU OF MILITARY AFFAIRS, PROSEC. BRANCH
To: ACTION ALCON, INFO CG PAAC

FOR INFORMATION ONLY

JAN 22 1945

NOT R
COS

SECRET.

Subject is execution of enemy agents reference your 9496 9466 and 9655 (not to PAAC) in the cases of MARTINELLI MANTO; SUMINO FRANCO and BOMI ZILIFO; AGOSTINI GONFREDO. CG PAAC will be delegated authority to conduct executions if sentences are confirmed and he will designate a U.S. military police unit under his command for that purpose under the immediate supervision of the U.S. Provost Marshall. Original confirmations of sentences and certified copies of delegation of authority to confirm sentences and other necessary documents will be presented direct to CG PAAC who will cable this HQ attention Provost Marshall such is on hand and indicate unit designated to carry out executions. Upon receipt of this information specific instructions to conduct executions will be issued. Procedure for executions will be substantially as appearing in U.S. pamphlet 27-4 Procedure for Military Executions dated 12th June 44. Both addressees please acknowledge receipt of this message.

(see Lols)

FOR INFORMATION ONLY

DIST

4314

ACTN: LEGAL
INFO: W/Pers
C/Com
C/S
CAS.
P. SAFETY

~~SECRET~~

PA

80

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

785017

~~SECRET~~

ALLIED FORCE HEADQUARTERS
AFO 512

601

AG 014.53/047 GEG-O

AP 694 RHF/awm
: : : : :
: ~~SECRET~~ :
: Auth: SAC MA :
: Initials: /C 128 :
: 18 January 1945 :
: : : : :

18 January 1945

JAN 21 1945

SUBJECT: Execution of Convicted Persons.

TO : Commanding General, 15th Army Group, APO 777.
President, Allied Commission, APO 394.
General Officer Commanding, Number 1 District.
General Officer Commanding, Number 3 District.
Commanding General, Rome Area Allied Command, APO 794.
Commanding General, LTCUSA, APO 512.

1. When any person is sentenced to death by an Allied Military Court under jurisdiction of the Allied Commission, the Allied Commission will inform this headquarters of that fact, stating the name and place of the Court, the name of the accused, the date of sentence and the place where the accused is confined. If the accused is in custody in the area forward of Army rear boundaries, similar notice will be given by the Allied Commission to Headquarters, 15th Army Group.

2. In the event that the accused is in custody in the area forward of Army rear boundaries, Headquarters, 15th Army Group, will issue an order designating the formation or unit which will perform the execution if the sentence is confirmed and directing that such formation or unit execute the sentence upon receipt of the following documents: (a) signed original confirmation of the death sentence and (b) a certified true copy of the power to confirm death sentences. Copy of such order will be sent to Allied Commission.

3. In all other cases this headquarters will issue a like order designating the formation or unit which will perform the execution if the sentence is confirmed and directing execution of the sentence upon receipt of the documents mentioned in paragraph 2. Copy of such order will be sent to Allied Commission.

4. Upon confirmation of the sentence in a case referred to in paragraph 2, the Allied Commission will forward the signed original confirmation of the death sentence and certified true copy of the power to confirm death sentences to Headquarters, 15th Army Group, unless such headquarters shall have instructed the Allied Commission to forward the documents directly to the designated unit or formation.

5. Upon confirmation of the sentence in a case referred to in paragraph 3, the Allied Commission will forward the signed original confirmation of the death sentence and a certified true copy of the power to confirm death sentences to the designated formation or unit.

see Minute 25

97A

~~SECRET~~

— 1 —

1. Expense Held.
I want to see the
distribution on some one.

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

785017

AFHQ Ltr, AG 014.53/047 GEG-O
dtd 18 January 1945 (Cont'd)

6. The designated formation or unit will be responsible for performing the execution with the least possible delay following receipt of the documents mentioned in paragraphs 2 - 5.

7. Upon completion of the execution the designated formation or unit will notify the Allied Commission, this headquarters and in cases referred to in paragraph 2, Headquarters, 15th Army Group, and will return the documents referred to in paragraphs 2 - 5 to the Allied Commission.

8. In the event that notification of sentence has been made pursuant to paragraph 1 and the sentence is not confirmed, the Allied Commission will so inform this headquarters, in appropriate cases 15th Army Group, and any formation or unit which may have been designated pursuant to paragraphs 2 or 3.

By command of Field Marshal ALEXANDER:

Colonel, AGD.
Acting Adjutant General.

DISTRIBUTION:

- 2 - En Addressee
- 1 - G-1 (A)
- 1 - G-1 (B)
- 1 - G-2
- 1 - G-5
- 1 - JA
- 1 - FMG (A)
- 1 - FMG (B)
- 2 - AG Records
- 1 - AG M & D

Distributors cos

1. app 13) G/S
1. app 14) C/S

~~SECRET~~

1724

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

785017

3

CSO

you will see from 1 that CC's authority to
confirm death sentences, temporarily suspended,
has again been regularized.

Sh

22 Dec 44

22/12

4312

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

2609

JA/hjp

26

CL3

20 December 1944

20 DEC 1944

SUBJECT: Confirmation of Death Sentences

TO : Legal Sub-Commission, Hq A.C.

1. Attached please find new form of authorization for confirmation of death sentences received from AFHQ, also confirmation of death slip in the case of LENCIONI Ugo.

2. The copy of Field Marshal Alexander's letter is for your retention. Please return the confirmation of death slip after necessary alterations have been made.

J. A. QUARE
Major, R. A.
Staff Officer to CC

2 Incls.

BA

22/12/44

see Minute 3

1726

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

785017

1 COPY

15 December 1944

SUBJECT: Confirmation of Death Sentences

TO : Ellery W. Stone, Rear Admiral, USNR

I, Harold E. L. G. Alexander CCB CSI DSO MC ADC, Field Marshal, Supreme Allied Commander Mediterranean Theatre of Operations and Military Governor of all Italian territory which is, or from time to time may become, subject to Allied Military Government do hereby delegate to Ellery W. Stone, Rear Admiral, USNR, full power and authority to confirm sentences of death imposed by Allied Military Courts in Military Government territory and Italian Government territory in Italy.

H. E. ALEXANDER,
Field Marshal,
Supreme Allied Commander,
Mediterranean Theatre.

43180
SEE

1727

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

785017

260941

23

F 68381
DEC 14 1142

C/4093
DEC 18 1510
PRIORITY

From: AFHQ, SIGNED SACRED CITE PHOEN
To: AIRCOM FOR LEGAL

15 DEC 1944

22

SECRET.

Para 1. Further to our F 61962, subject confirmation of death sentences.

Para 2. No rpt no asses should be confirmed by Commodore STONE until new delegation of power by Field Marshal ALEXANDER is received.

CONFIDENTIAL

DISA

4309

ACTION INFO
LEGAL SC (2)
CHIEF COMMISSIONER
COS (2)
C A SEC
FILE

see Minute 24

16
12

1728

785017

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

SECRET

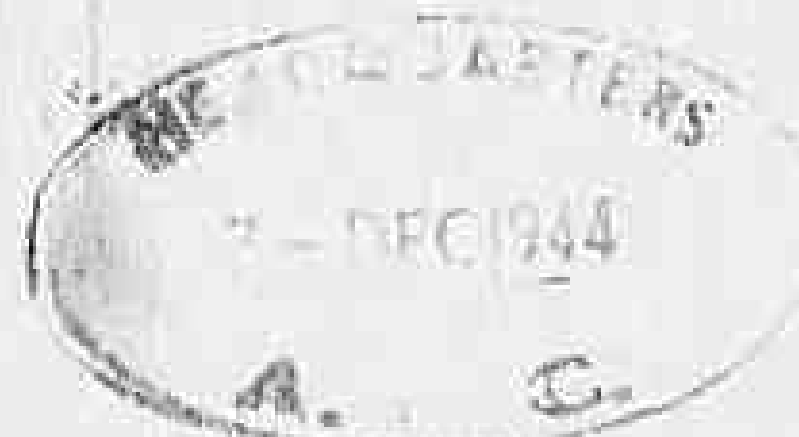
F 61962
DEC 022102

SIGNED SACRED CITE PHONG

AICOM

2609
DEC 030354
ROUTIN.
3 DEC 1944

FOR INFORMATION ONLY



SECRET.

- Para 1. Subject is confirmation of death sentences.
- Para 2. Time of change in Supreme Allied Command not yet known.
- Para 3. You will be notified when existing power ceases to be valid and furnished with a new delegation as requested

AP Dist

Action Legal Sec (v)
Chief Commission

C.O.S. 4308
P.A. Sec

File

SECRET

PA

1729

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

785017

2609
ALLIED CONTROL COMMISSION
INTER OFFICE MEMO

From: Chief Staff Officer

Ext. 300

SUBJECT: Death Sentences

FILE No. 31 OCT Recd

TO: Chief of Staff.

31st Oct 1944

Col. Cripps reported that Legal Sub Commission had written to G-2, A.P.H.Q. asking them to give orders immediately for the execution of prisoners. No reply has yet been received. He will let you know as soon as he hears.

Meanwhile the position is as explained in a minute from Legal Sub Commission which you saw on their file some time ago.

4307
Worshipful
Chief Staff Officer,
Office, Chief of Staff

See by
CD 3/11/44

785017

20

1 minute sheet from temp folder

3
HSC of S, C, T Sec.

Person seen of folio 2 and return

✓ L. Talbot

OFFICE CHIEF OF STAFF

4

COs. Seen 1 copy taken.

PH. WHITE LDR. to PH. CH. Sec.

24 Oct 44.

5.

MAJOR TALBOT

In accordance with your letter
Today have passed original memorandum to
C A Sec for legal SC. (on Acc/4052/L).

26 Oct 44.

Wack 44, 11/26/44

Whitaker

4306

1731

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

785017

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COS 29
1095

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 387.4-1

19 October 1944

22 OCT Recd

SUBJECT: Revocation of Power to Confirm Death Sentences.

TO : Headquarters, Allied Control Commission,
APO 394.

1. In view of the recent delegation of the power to confirm death sentences to the Acting Chief Commissioner it has been determined to revoke the similar power previously granted to Brigadier Lush.

2. The instrument of revocation is enclosed herewith.

3. Acknowledgement of receipt is requested.

RECEIVED
21 OCT 1944
G-5

C. E. Lewis - Frank Carl
CHARLES W. SPOTFORD
Brigadier General, G.S.C.
Assistant Chief of Staff, G-5

Incl:
as above

Copy sent to 'A' Files
and taken by Civil Affairs
See (See Minute 4) 24 Oct 44

25/4
P/L

CC.

Sh

1st
of Commission

1732

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

785017

COY.
ALLIED FORCE HEADQUARTERS
APO 512

18
28B

19 October 1944

SUBJECT : Revocation of Power to Confirm Death Sentences.

TO : Maurice S. LUSH, CBE, MC, Brigadier.

I, Henry Maitland Wilson, GCB, GBE, DSO, ADC, General, Supreme Allied Commander Mediterranean Theatre of Operations and Military Governor of Military Government Territory in Italy, do hereby revoke the power delegated by me to Maurice S. LUSH, CBE, MC, Brigadier, on 30 September 1944, to confirm sentences of death imposed by Allied Military Courts in Military Government Territory and Italian Government Territory in Italy.

HENRY MAITLAND WILSON
General
Supreme Allied Commander
and Military Governor.

4304

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

785017

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

13

ACC/4063/1/L

21 Oct. 44

21 OCT Recd

Subject: Confirmation of death sentences.

To : Chief of Staff, H.Q. ACC.

1. I transmit the names, date of conviction and date of confirmation of sentence by the Chief of Staff, in proceedings in which a death sentence was imposed. This office does not receive a report of date of execution.

2. Please note that our records do not contain the specific wording of each respective charge. The most serious charge is recorded on our records.

3. If any other information is desired it will be necessary that the record of the case be recalled.

Richard H. Wilmer
RICHARD H. WILMER
Colonel, CAC
Chief Legal Adviser.

C.L.A.

*handed
off to
mail*
The 3 sentences of 9/x have not yet been
executed. RAAC ~~has~~ are concerned. We must
follow them up. Please report situation without delay.
MS/21/x.

1734

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

785017

12

<u>NAME</u>	<u>DATE of Conv.</u>	<u>CHARGE</u>	<u>DATE OF CONFIRMATION OF SENTENCE</u>
BARTOLINI Silvio	13 July 44	Espionage	6 Aug. 44
CASIZZONE Raffaele	7 June 44	Fatal wounding of soldier	20 Aug. 44
MASTROVITO Cosimo	10 July 44	Killing of soldier	25 Aug. 44
BERLENDIS Riccardo	4 Sep 44	Espionage	9 Oct. 44
MASIN Lino	15 Aug. 44	Espionage	9 Oct. 44
PIZZI Lorenzo	9 Aug. 44	Espionage	9 Oct. 44

4302

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

785017

Copy A files
7

9

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 387.4-1

15 October 1944

SUBJECT: Confirmation of Death Sentence.

TO : Headquarters, Allied Control Commission, APO 394.

1. Enclosed herewith is letter authorizing Commodore Ellery W. Stone, USNR, full power to confirm death sentences imposed by Allied Military Courts in Military Government territory and Italian Government territory in Italy.

2. The Power granted Brigadier Lush is in the process of revocation.

For the Asst. Chief of Staff, G-5:

Incl:
ltr sgd by SAC dtd 13 Oct.44.

F. J. SLAUGHTER,
Captain, A.G.D.

Copy 5 file 2609/CCS



4301

Copy sent to Legal Sec 16/oct.

1736

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

785017

8

13 October 1944

SUBJECT: Confirmation of Death Sentence

TO : Ellery W. STONE, Commodore U.S.N.R.

I, Henry Maitland Wilson, GCB, GBE, DSO, ADC, General,
Supreme Allied Commander Mediterranean Theatre of Operations and
Military Governor of Military Government Territory in Italy, do
hereby delegate to Ellery W. STONE, Commodore, USNR, full power and
authority to confirm sentences of death imposed by Allied Military
Courts in Military Government Territory and Italian Government
Territory in Italy.

GENERAL
Supreme Allied Commander
and Military Governor.

4200

1737

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

785017

4

HEADQUARTERS ALLIED CONTROL COMMISSION
Office of the Acting Chief Commissioner
APO 394

EWG/dfu

10 October 1944

RFP 2609/14/CCS.

Subject: Review of Death Sentences

To: Chief Legal Officer

1. In view of my promotion, it will now be possible for me to review and confirm death sentences, as Acting Chief Commissioner and acting as CCAO.

2. Will you therefore please prepare the necessary instrument for signature of either General Wilson or General Alexander. I presume it should be the former, since he is now Military Governor.

ELLERY W. STONE
Commodore
Acting Chief Commissioner

cc: Chief of Staff

A file

See Minutes 7

4259

PA AL
13/10

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

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cos

HEADQUARTERS
ALLIED CONTROL COMMISSION
LHM1 SUB-COMMISSION
APO 374

133/4052/1.

/rlp.
8 October 1954.

SUBJECT : Death sentences.

10 OCT Recd

TO : Acting Chief Commissioner.

I prepared yesterday and have sent to AFHQ, C-5, a form of delegation to be signed by General Wilson delegating to you the authority to confirm sentences of death imposed by Allied Military Courts.

Richard H. Wilson

4298

RICHARD H. WILSON.
Colonel, USA,
Chief Legal Advisor.

1739

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

785017

2609
cos.

2003 Sect 2
9959

CONFIDENTIAL

ALLIED FORCE HEADQUARTERS
G-5 Section
PO 312

4 October 1944

6 OCT Recd

SUBJECT: Delegation of Power to Confirm Death Sentences.

TO : Headquarters, Allied Control Commission, JFO 374.

Herewith original and copy of delegation of authority to confirm death sentences from the Supreme Allied Commander to Brigadier Lush.

Charles M. Spottford

CHARLES M. SPOTTFORD,
Brigadier General, U.S.A.,
Assistant Chief of Staff, G-5.

Incl:

Orig. & copy of ltr. as
above, dated 30 Sept. 44.



Chief of Staff

To see

W 6/10

4297

CONFIDENTIAL

1740

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

785017

ALLIED FORCE HEADQUARTERS
APO 512

30 September 1944

SUBJECT: Confirmation of Death Sentence.

TO : Maurice S. Lush, CBE, MC, Brigadier.

I, Henry Maitland Wilson, GCB, GBE, DSO, ADC, General,
Supreme Allied Commander Mediterranean Theatre of Operations
and Military Governor of Military Government Territory in
Italy, do hereby delegate to Maurice S. Lush, CBE, MC, Brig-
adier, full power and authority to confirm sentences of
death imposed by Allied Military Courts in Military Govern-
ment Territory and Italian Government Territory in Italy.



General
Supreme Allied Commander
and Military Governor.

4256

1741