

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

785017

ACC

10000/109/1573

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785017

10000/109/1573

SENTENCES
FEB. - AUG. 1944

BY PAST AIR COURIER

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 6

26th June 1944.

To : Headquarters, Allied Control Commission,
(R.C. and M.G. Section).

Subject : Crimes Against Allied Forces - Conditional
Suspension of Punishment.

Reference : L/1421.

1. It has been noted with concern that in some cases falling into the above category, the accused, after conviction and sentence, have been granted conditional suspension of punishment both by the civil and military Tribunals of Sardinia. Particulars of these cases are given in appendix attached hereto.

2. Under ARTS 163 ET SEQ of the Italian Penal Code, the judge may, if the period of imprisonment for a crime or offence does not exceed one year, and if it is a first offence, order conditional suspension of punishment for two or five years if he has grounds (see Art 133) for presuming that the guilty person will abstain from committing further offences. If such conditional suspension is granted and if within the period fixed, the convicted person does not commit another crime or offence of a similar nature, the offence is extinguished.

3. Nearly all crimes against Allied Forces committed in Sardinia are cases of theft. The punishment for theft, if it is unaccompanied by aggravating circumstances, is imprisonment up to three years with no minimum punishment stated. (See Art 624 of the Penal Code). If, however, as frequently happens, the theft is accompanied by any one of the fairly numerous classes of aggravating circumstances enumerated in Art 625, the punishment is from one to six years imprisonment. Under Art. 65 of the Code, the above minimum sentence of one year may be reduced to eight months if certain extenuating circumstances exist. In other words, the minimum sentence which can be imposed in aggravated theft cases (however trifling the offence)

conviction and sentence, have been granted conditional suspension of punishment both by the civil and military tribunals of Sardinia. Particulars of these cases are given in appendix attached hereto.

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- (a) He can impose and see carried out the minimum punishment, which in some cases may be too high if regarded as a punishment for an ordinary theft; or
- (b) He can impose the minimum punishment and suspend it under the provisions of the Code mentioned in Para 2 above.

In the latter case, the result may be that the convicted person will go unpunished altogether except for the stigma of the sentence. There is no middle course open.

4. /Over.

/Continued.

RECEIVED QUARTER 3/1/18

20/1/18

A.C.C.

4. The question of suspension of punishments in cases affecting Allied Forces does not appear to be covered by the directive issued by the Ministry of Justice, of which a translation accompanied H.Q. A.G.O. (Rear) Legal Sub-Commission letter AGC/4011/L, dated 12th May 1944. It may be mentioned incidentally, that the Tribunale Militare have not yet received the directive from the president of the Italian Supreme Military Court which is referred to in para 4 of the above quoted letter.
5. Matters have been discussed with the Procuratore del Re and with the Procuratore Militare del Re in the light of the suspensions which have already taken place. The former without any hesitation and without any pressure being brought to bear has agreed to instruct the Procuratore del Re of Cagliari to lodge appeals against the decisions of the court in these cases. These appeals have now been lodged. The First President has issued instructions to the depending Tribunal in terms of the attached letter dated 15th June 1944. The Procuratore Militare on the other hand showed some reluctance when the matter was discussed with him to take any action which might have the effect of interfering with the discretion of judges. It was thought better to refrain from bringing any pressure to bear on him, in view of the fact that an issue of policy is raised involving a possible interference with the normal operation of Italian law. In any case, it is considered likely that the same questions have arisen on the Mainland, and the Procuratore Militare was informed that the whole matter would be referred to higher authority. It should be stated that whereas the time limit for appeals against suspensions (3 days) may be extended at the discretion of the Procuratore Generale in civil cases I am informed by the Procuratore Militare that appeals in military cases cannot be made after the expiration of the 3 days. In view of the large number of forthcoming cases before the military Tribunal it is therefore urgent that an early understanding should be come to. Meantime I have requested that all future suspensions be automatically appealed so as to preserve the right to deal with these cases as the Supreme Military Tribunal in agreement with AGC may direct.
6. As regards the Military Tribunal a further question has arisen inasmuch as it appears that under Art 2 Legge 9 July 1940, Number 924, punishment of soldiers may be postponed until

... was agreed to instruct the Procuratore del Re of Cagliari to lodge appeals against the decisions of the court in these cases. These appeals have now been lodged. The First President has issued instructions to the depending Tribunal in terms of the attached letter dated 16th June 1944. The Procuratore Militare on the other hand showed some reluctance when the matter was discussed with him to take any action which might have the effect of interfering with the discretion of judges. It was thought better to refrain from bringing any pressure to bear on him, in view of the fact that an issue of policy is raised involving a possible interference with the normal operation of Italian law. In any case, it is considered likely that the same questions have arisen on the Mainland, and the Procuratore Militare was informed that the whole matter would be referred to higher authority. It should be stated that whereas the time limit for appeals against suspensions (3 days) may be extended at the discretion of the Procuratore Generale in civil cases I am informed by the Procuratore Militare that appeals in military cases cannot be made after the expiration of the 3 days. In view of the large number of forthcoming cases before the military Tribunal it is therefore urgent that an early understanding should be come to. Meantime I have requested that all future suspensions be automatically appealed so as to preserve the right to deal with these cases as the Supreme Military Tribunal in agreement with AGC may direct.

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7. It has been arranged with PSE here to carry out a campaign of deterrent publicity in connection with crimes against Allied interests and it is felt that the suspension or postponement of punishments may well have a stultifying effect on this campaign.

/Continued.

1/Continued.

It is desirable in my opinion that these cases should be tried quickly in the district where the crime has taken place and that the sentence be carried into effect immediately for all to see. It may, however, be impossible in the present state of the law to prevent judges from granting suspensions and postponements of punishments. Perhaps the only action which can now be taken short of an alteration of the law is by way of directives from the Ministry of Justice and the Supreme Military Tribunal instructing judges to exercise any discretion conferred upon them by existing Italian law with very careful regard to the seriousness of offences of the type in question and also with regard to the deterrent effect on prospective offenders of immediate punishment. Will you please advise as to the policy adopted on the Mainland as regards the above matters, and state whether you consider that any independent action should be taken here pending the possible issuance of further instructions from higher Italian Authority?

M. Carr.

M. CARR,
Brigadier,
Regional Commissioner.

EGSA/sjs.

Copy to : Administration Section,
Allied Control Commission (Rear).

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RGSA/ajs.

M. Carr

M. CARR,
Brigadier,
Regional Commissioner.

Copy to : Administration Section,
Allied Control Commission (Rear).

341b

281
282 - 283
HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

26
/rlp.
28 August 1944.

ACC/4002/L.

30 AUG Recd

SUBJECT : AMC Courts - long term sentences.

TO : Regional Legal Officers (THRU Regional Commissioners),
Regions I, Southern, IV, V, VI, VIII, IX and "Z".

1. a. In all General Military Court cases and in all Superior Court cases in which a total sentence in excess of 5 years is imposed, the Court will include as part of its record a statement of its findings on any material question of fact particularly as to one which may be in dispute. It is not necessary that this statement be made to the public.

b. The object of this statement is to supply information to the reviewing authority. Frequently there is a serious conflict of evidence on some vital element in the case; e.g., in a case in which an Allied soldier is killed in a fight, the conduct of the soldier prior to the fight is most material, had he been behaving quietly or in a noisy or drunken way? had his manner been hostile or offensive? or had he actually threatened or used force against the accused or members of the accused's family? It is the duty of the Court, having heard the evidence and seen the witnesses, to decide such questions of fact. The statement is required to inform the reviewing authority of such decisions, it should be as short as possible provided that it fulfils the above requirements.

2. In any case in which a Court, for some special reason or on account of some special circumstances in that case, imposes a sentence either heavier or lighter than it would normally do in such a case, the Court will make a note on the record to that effect and will state the nature of such reason or circumstances.

3. The above instructions will be brought to the attention of all legal officers and copies for distribution are enclosed herewith.

Richard H. Wilmer
RICHARD H. WILMER.
Colonel, GAC.
Acting Chief Legal Officer.

Copy to: SCAGS, 5 & 8 Armies.
RC & MG Sec (8).

3445

785017

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

MS/pa

Recd 20 Jul 44

REFERENCE : ACC/4011/12/L.

20 Jul 44.

SUBJECT : Cases of Offences against Allied Interests-
Suspension of sentences.

TO : RLO (thru Regional Commissioner) Region 6.

1. Reference is made to your L/1421.
2. Upon request of this Sub-Commission the Minister of Justice is preparing an amendment to the circular dated 8 March which would cover the suspension of sentences provided for by Art.163 C.P.
3. The LO to the Procuratore Generale Militare was instructed to discuss all the points raised in your letter and regarding military tribunals with the view of obtaining a speedy action and information requested by you.

(Sgd) A. R. Thakran

A. R. THAKRAN,
Lt. Colonel,
Italian Branch,
for Acting Chief Legal Officer.

Copy to : R.C. & M.G. Section.

OK 2/17

3113

PA

HEADQUARTERS
ALLIED CONTROL COMMISSION
E.C. & L.C. SECTION
APO 394

3 July 1954

Ref /251/23/CA

SUBJECT: Crimes Against Allied Forces - Conditional Suspension
of Punishment.

TO : Admin. Sect. (for Legal Sub-Comm.)

Reference is made to letter from Reg. VI (6/14/54 of
26 June 54) addressed to this Hq. copy to Admin Section and
relative list of cases attached. May we have your views and
comments in due course.

WILLIAM R. PIERCE
Colonel
Deputy Executive
Commissioner

JE/ER

3412

781 *JS*
- 2 JUL 1944

BY FAST AIR COURIER

HEADQUARTERS

ALLIED CONTROL COMMISSION

REGION 6

26th June 1944.

To : Headquarters, Allied Control Commission,
(R.C. and M.G. Section).

Subject : Crimes Against Allied Forces - Conditional
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HEADQUARTERS

7 JUL 1944

A.C.C.

23 JUL 1944

/Continued.

21

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/Continued.

3410

7/Continued.

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RGSA/ajs.

Mc Carr Supadice

M. CARR.
Brigadier.
Regional Commissioner.

Copy to : Administration Section,
Allied Control Commission (Rear).

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Mc Carr Supadier

M. CARR.

Brigadier.

Regional Commissioner.

RSCA/njs.

Copy to : Administration Section,
Allied Control Commission (near).

3404

785017

PRIMA PRESIDENZA
CORTE D'APPELLO DI
CAGLIARI

19
Cagliari 16 Giugno 1944

Prot. N. 920

Oggetto: Reato interessanti i Governi Alleati

Ai Sigg. Presidenti dei Tribunali del

DISTRETTO

e p.c.:

all' Ill. mo Sig. Maggiore Alexander
Commissione Alleata di Controllo

Via Roma 37 - CAGLIARI -

Con riferimento alle precedenti mie circolari in data 7 e 14 Maggio decorso N. 619 e 658, aderendo ad analoga richiesta della Commissione Alleata di Controllo, dispongo che nel darvi notizie delle sentenze penali per reati interessanti i Governi Alleati, sia specificato se venne ordinata la sospensione condizionale delle pene.

Richiamo, inoltre, l'attenzione delle SS. LL. e dei Signori Giudici sui limiti entro i quali è ammessa la sospensione condizionale della pena (art. 164 C.P.), e prego tenere presente che la gravità dei reati, da desumersi dalle circostanze di cui nell' art. 133 del detto Codice, deve, caso per caso, essere vagliata tenendo conto anche delle condizioni dell' ora presente.

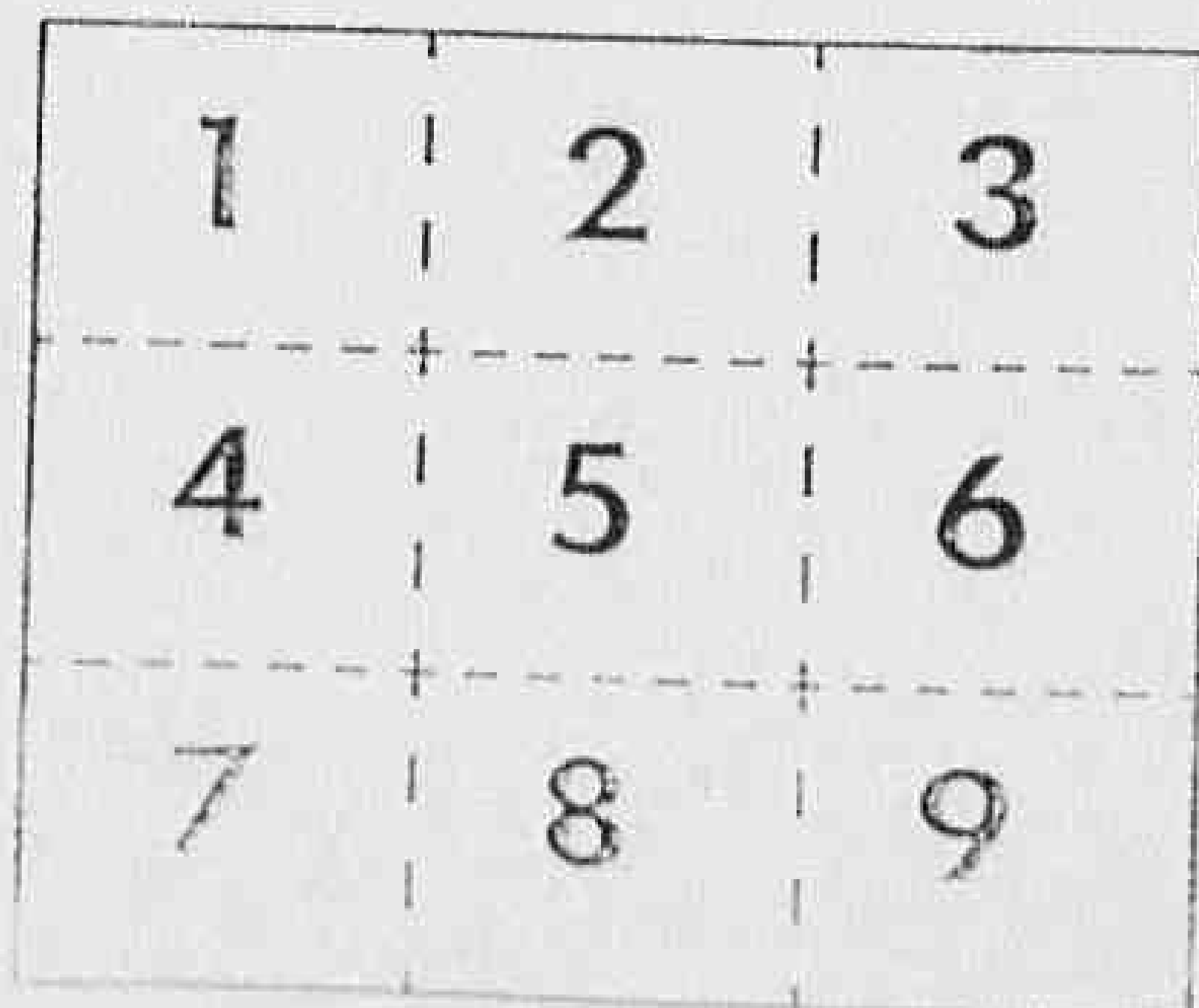
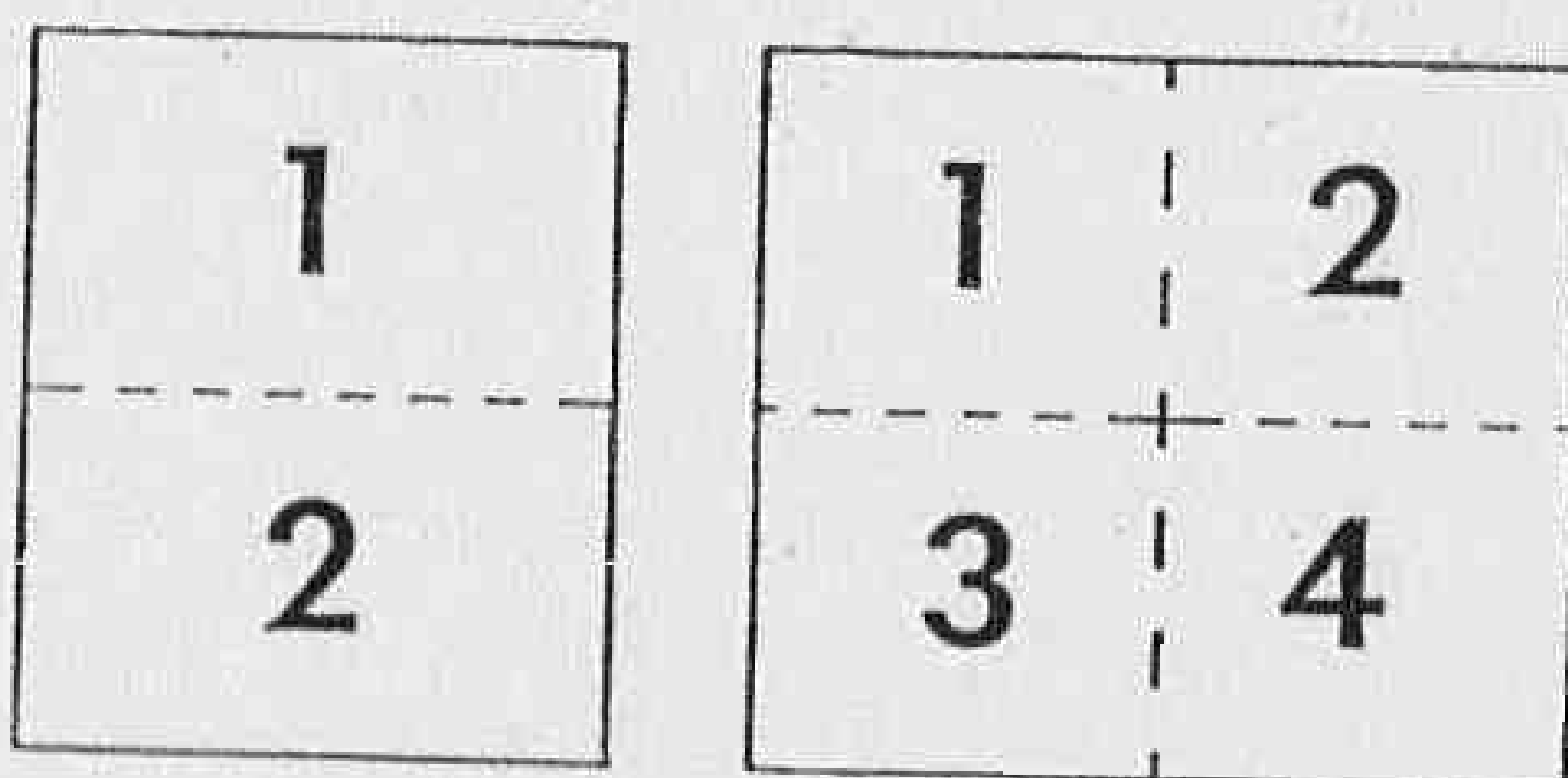
Gradirei assicurazione.

IL PRIMO PRESIDENTE
(G. M. Volpe)

340

MAPS AND CHARTS TOO LARGE TO FILM
ON ONE EXPOSURE ARE FILMED CLOCKWISE
BEGINNING IN THE UPPER LEFT CORNER,
LEFT TO RIGHT, AND TOP TO BOTTOM.

SEE DIAGRAMS BELOW.



APPENDIX REFERRED TO: List of Cases in Civil and Military Tribunals
where Suspension of Punishment has been granted.

NAME	DATE OF ARREST	TIME SPENT IN JAIL BEFORE SENTENCE	TRINUNALE	ARTICLE OF PENAL CODE	Short Particulars of Circumstances
Mallus, Enrico Mallus, Vincenzo	Not arr. Offence on 3 May 44	None	Cagliari	Art 624, 625 No. (7) Theft	Stole 40 kgs Barley from American Trucks on Via Roma
Bpano, Mario	18 April 44	1 month 23 days	Cagliari	Art 624, 625 No. (1), (2), (3), (5), (7) Theft	Stole clothes, milk coffee from Amer. Red Cross (ante not stat)
Scalas Antonio	14 April 44	1 month 27 days	Cagliari	Art 624, 625 No. (7) Theft	Stole a drum contain 200 liters of Machi Oil from Elmas Airp
Rivano, Paolo	16 May 44	25 days	Cagliari	Art 624 Theft	25 kgs of flour (not where stolen hence simple theft)
Anedda Giovanni	Not Arrested	None	Cagliari	Art 624 Theft	Stole box of Biscuit from Port where the were Guards, hence theft
Canu Antonio	15 May 44	26 days	Cagliari	Art 624, 625 Art 61, No. (11) Theft (1)	Stole 3 cans of me kilo ea. 24 pieces olate, 2 cans of mil of Sardines, 2 kilo Potatoes, 18 boxes cigarettes ea; sto Port where he work
Del Zompo Emidio	22 April 44	1 month 19 days	Cagliari	Art 648 Receiving	7 pairs of America found in his house
Noli Umberto	25 April 44	1 month 16 days	Cagliari	Art 624, Art 64 No. (11) Theft	Stole 1 can of but 1/2 kilo; 3 cans of from Hosp. at Monta where he was a cod 1 can of tomatoes
Farris Ignazio and 3 others	9 May 44	1 month	Cagliari	Art 624 Art 64, No. (11) Theft	Stole 52 kilos of from the Monticani house where he wor

litary Tribunals
has been granted.

ARTICLE OF PENAL CODE	Short Particulars of Circumstances	Punishment	Date of Sentence	Date of Appeal	REMARKS
Art 624, 625 No. (7) Theft	Stole 40 kgs Barley from American Trucks on Via Roma	4 months penal Ser- vitude and L.4000 fine	10 June 44	10 June 44	Conditionally sus- pended under Art 163 Sentence appears inadequate
Art 624, 625 No. (1), (2), (3), (5), (7) Theft	Stole clothes, milk and coffee from Amer. Red Cross (amts not stated)	6 mos penal servitude & L.600 fine	10 June 44	10 June 44	Suspended under Art 163
Art 624, 625 No. (7) Theft	Stole a drum containing 200 liters of Machine Oil from Elmas Airport	6 mos penal servitude & L.1000 fine	10 June 44	10 June 44	Suspended under Art 163. Sentence appears inadequate
Art 624 Theft	25 kgs of flour (not known where stolen hence simple theft)	4 mos penal servitude & L. 800 fine	10 June 44	10 June 44	Suspended under Art 163. Sentence appears inadequate
Art 624 Theft	Stole box of Biscuits from Port where there were Guards, hence simple theft	4 mos penal servitude & L.500 fine	10 June 44	10 June 44	Suspended under Art 163
Art 624, 625 Art 61, No. (11) Theft (1)	Stole 3 cans of meat of 1 kilo ea. 24 pieces of Choc- olate, 2 cans of milk, 2 cans of Sardines, 2 kilos of Potatoes, 18 boxes of 50 cigarettes ea; stolen from Port where he worked.	6 mos penal servitude & L.800 fine	10 June 44	10 June 44	Suspended under Art 163
Art 648 Receiving	7 pairs of American shoes found in his house	8 mos penal servitude & L.2000 fine	10 June 44	10 June 44	Suspended under Art 163
Art 624, Art 64 No. (11) Theft	Stole 1 can of butter of $\frac{1}{2}$ kilo; 3 cans of sausages from Hosp. at Montargini where he was a cook; also 1 can of tomatoes of $\frac{1}{2}$ kilo	4 mos penal servitude & L.800 fine	10 June 44	10 June 44	Suspended under Art 163
Art 624 Art 64, No. (11) Theft	Stole 52 kilos of Wheat from the Monticani Ware- house where he worked	1 mo penal servitude & L.300 fine	7 June 44	7 June 44	Suspended under Art 163. Sentence appears inadequate

Canu Antonio	15 May 44	26 days	Cagliari	Art 624,625 Art 61, No (11) Theft (T)	were guards, hence the theft Stole 3 cans of meat kilo ea. 24 pieces of olate, 2 cans of milk of Sardines, 2 kilos Potatoes, 18 boxes of cigarettes ea; stole Port where he worked
Del Zompo Emidio	22 April 44	1 month 19 days	Cagliari	Art 648 Receiving	7 pairs of American found in his house
Noli Umberto	25 April 44	1 month 16 days	Cagliari	Art 624, Art 64 No (11) Theft	Stole 1 can of butter 1/2 kilo; 3 cans of from Hosp. at Montara where he was a cook 1 can of tomatoes
Farris Ignazio and 3 others	9 May 44	1 month	Cagliari	Art 624 Art 64, No (11) Theft	Stole 52 kilos of W from the Monticani house where he worked
Basso Giovanni	11 April 44	21 days	Cagliari	Art 624,625 No (7) Theft	Stole a pair of Boots the Port

	theft	Penal fine			
Art 624, 625 Art 61, No (11) Theft (17)	Stole 3 cans of meat of 1 kilo ea. 24 pieces of Chocolate, 2 cans of milk, 2 cans of Sardines, 2 kilos of Potatoes, 18 boxes of 50 cigarettes ea; stolen from Port where he worked.	6 mos penal servitude & L.800 fine	10 June 44	10 June 44	Suspended under Art 163
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Art 624 Art 64, No (11) Theft	Stole 52 kilos of Wheat from the Monticani Warehouse where he worked	1 mo penal servitude & L.300 fine	7 June 44	7 June 44	Suspended under Art 163. Sentence appears inadequate
Art 624, 625 No (7) Theft	Stole a pair of Boots at the Port	8 Mos penal servitude & L.800 fine	7 June 44	No Appeal	Suspended under Art 163. NOTE: The Provost Marshall's Office acquiesces in this suspension as case is regarded as trivial.

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where Suspension of Punishment has been granted.

NAME	DATE OF ARREST	TIME SPENT IN JAIL BEFORE SENTENCE	TRIBUNALE	CRIME AND ARTICLE OF PENAL CODE	Short Particulars Circumstances
Rigolli Ireneo Caruso Ugo	12 Dec 43	About 3 months. Precise information not available	Trib.Mil. T.G. Sardegna	Aggravated theft. Art 230 (2), 231 (1), 47 (3) of Military Penal Code and Art 47 of Military Penal War Code	Theft of 2 screwdrivers, 1 key, 1 pair Pliers, other Tools from a set of Aviation Tools. Aggravated because committed by a soldier in time of War to the detriment of the Allies.
Angioni Giovanni	25 April 44	About 1 month. Precise information not available	"	Aggravated Theft. Art 47(3), 230 p.p.c. Military Penal Code & Art 47 of Military Penal War Code	Theft of a pair of shoes, 1 cigarette lighter, packet of cigarettes from an American Soldier. Aggravated because committed by a soldier in time of War.
Rotta Vittorio Freddi Vittorio	13 April 44	"	"	Aggravated attempted Theft. Arts 46, 47(3), 230(2) of Military Penal Code & Art 47 Penal Military War Code	Attempted Theft of a barrel of Soda. Aggravated because committed by a soldier in time of War to the detriment of the Allies.
Richera Salvatore	27 Feb 44	3 months & 9 days	"	Aggravated attempted Theft. Arts 46, 47(3) 230(1), 231(4) of Military Penal Code & Art 47 of Military Penal War Code	Attempted theft of shoes from an American Soldier. Aggravated because committed by a soldier in time of War along with other soldiers.

ary Tribunals
been granted.

CRIME AND ARTICLE OF PENAL CODE	Short Particulars of Circumstances	PUNISHMENT	DATE OF SENTENCE	DATE OF APPEAL	REMARKS
Aggravated Theft. Art 230 (2), 231 (1), 47 (3) of Military Penal Code and Art 47 of Military Penal War Code	Theft of 2 screwdrivers, 1 key, 1 pair Plyers & other Tools from a box of Aviation Tools. Aggravated because committed by a serving Soldier in time of war to the detriment of the Allies.	1 year Military Penal Servitude	6 June 44	6 June 44 (By Accused)	Suspended under Art 163 of Penal Code. Extenuating Circumstances considered by Judge to prevail over aggravating circumstances under Art 69.
Aggravated Theft. Art 230 (3), 230 p.c. Military Penal Code & Art 47 of Mil- Penal War Code	Theft of a pair of Gloves, 1 cigarette lighter and a packet of cigarettes from an American Soldier. Aggravated because committed by a serving Soldier in time of War.	3 months Military Penal Servitude	6 June 44	=	.
Aggravated Attempted Theft. Arts 46, 230 (3), 230 (2) of Military Penal Code & Art 47 Penal Military War Code	Attempted Theft of a barrel of Soda. Aggravated because committed by a serving Soldier in time of War to the detriment of the Allies	1 year Military Penal Ser- vitude & the same for an- other crime	6 June 44	=	Punishment Postponed
Aggravated Attempted Theft. Arts 46, 230 (3), 230 (1), 231 (4) of Mil. Penal Code & Art 47 of Penal War Code	Attempted theft of 1 pair of shoes from an American Soldier. Aggravated because committed by a serving soldier in time of War along with other soldiers unknown	6 months (Military Penal Servitude and 5 yrs & 6 mos. for other Crimes	6 June 44	=	Punishment Postponed

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

785017

				Art 47 Penal Military War Code	
Richera Salvatore	27 Feb 44	3 months & 9 days	"	Aggravated attempted Theft. Arts 46, 47(3) 230(1), 231(4) of Mil. Penal Code & Art 47 of Penal Mil. War Code	Attempted theft of shoes from an Amer Soldier. Aggravate because committed serving soldier in time of War along other soldiers us
Frigerio Enrico	20 May 44	5 days	"	Improper Purchase of American Military Property. Art 166 Penal Mil- itary Code & Art 3 of Penal War Code	Improper possessio Jacket, Trousers, and a pair of Shoes property of the Al Military Administ

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

785017

Art 47 Penal Military War Code					
Aggravated attempted Theft. Arts 46, 47(3) 230(1), 231(4) of Mil. Penal Code & Art 47 of Penal War Code	Attempted theft of 1 pair of shoes from an American Soldier. Aggravated because committed by a serving soldier in time of War along with other soldiers unknown	6 months Military Penal Servitude and 5 yrs & 6 mos. for other Crimes	6 June 44	=	Punishment Postponed
Improper Purchase of American Military Property. Art 166 Penal Military Code & Art 3 of Penal War Code	Improper possession of a Jacket, Trousers, Blouse and a pair of Shoes the property of the Allied Military Administration	6 months Military Penal Servitude and 6 years and 1 month for another crime	24 May 44	25 May 44 (By Accused)	Punishment Postponed

TOP SECRET

HEADQUARTERS
ALLIED COTER COMMISSION
R.C. & M.C. Section
APO 394

Ref/ 281/16/CA.

7 June 1944.

SUBJECT: Brasfield. Pietro.

TO : Admin Section - For Legal Sub-Commission.

1. In accordance with HQ. AAI/5108/1/A(PB) of 5 June 1944, para.1 and 2, the case of the above-mentioned is forwarded to you duly examined and signed for forwarding to "A" Branch, No.3 District.

2. Please note para.4 and 5 of AAI letter.

NORMAN E. FINE,
Colonel,
Deputy Executive
Commissioner.

3400

FILMED AS FOUND
IN COLLECTION

281
1 MAY Recd
REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
.....

488
QB/mms

QB336

29 April 1944

SUBJECT: Case of Andrea VALIANTE, sentenced to 20 years imprisonment.

TO : Regional Commissioner, Region 5, A.C.C., CAMPOBASSO.

Reference letter No. CP/Legal/18 dated 7th Feb. 44.

This matter has been under review since our first representation of the matter to the Italian Comando Supremo on 18th Feb.

The latest development is contained in a letter from the "Ufficio Affari Vari" dated 28th April, of which the following is an extract:

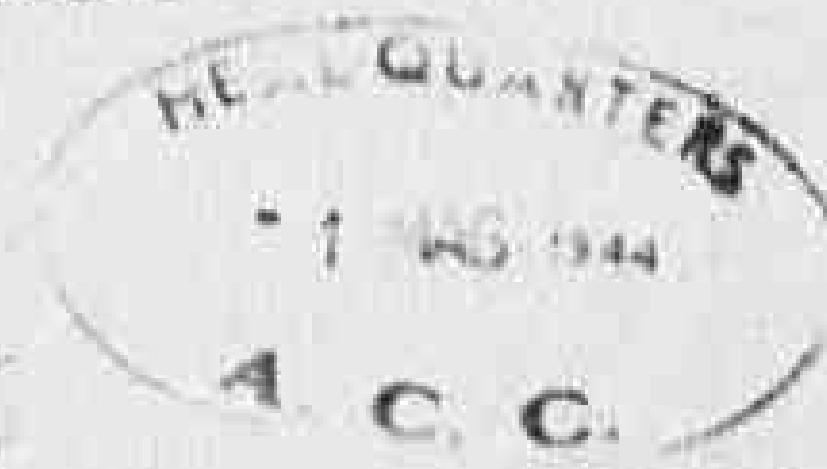
"The case of the soldier Andrea VALIANTE is under careful examination by the competent authorities in order to investigate the possibility of setting in motion the eventual granting of the Sovereign's Mercy".

A further communication will be addressed to you as soon as possible.

Lt. Col.

(Sgd) (G. W. QUINSMITH)
Army Sub-Commission
Advanced Headquarters

Copy to: RC & MG Sec.,
ACC, Naples.



3403

SUBJECT: Case of Polessi Italo.

TO : Deputy Executive Commissioner.

1. Folios 10 to 13 gives the report submitted by S.C.A.O. 5th Army on the case of this Italian, as requested by the Executive Commissioner on the 19th March (Folio 6).
2. The delay is satisfactorily accounted for.
3. As regards the malnutrition, S.C.A.O. 5 Army is clearly to blame. I spoke to Col. Mayne who confirmed that the section of the jail in which Polessi was lodged had been taken over by Provost Marshal, 5th Army, and run completely by him. The fact that the Provost Marshal admits that he allowed the Italian jailer to be in complete control of feeding arrangements of prisoners until he received the inquiry from A&G is a domestic matter of the 5th Army.
4. It has been remedied now and personally I do not think any good would be caused by taking the matter any further.

18. April. 44

G.W.I. Shipp
G.W.I. SHIPP,
Lt. Col.

HEADQUARTERS FIFTH ARMY
ALLIED MILITARY GOVERNMENT, (FIELD)
APO-464, U. S. ARMY

HEADQUARTERS

11 APR 1944

A. C. C.

10 April 1944

SUBJECT: Italo Palessi.

TO : Executive Commissioner, Allied Control
Commission, APO-394, U.S. Army.

*As officer
5 Army
respon.
talk Wayne*

1. An investigation has been made as to the delay (16 December to 22 February) in the trial of Italo Palessi, in accordance with letter dated 19 March 1944 from the Executive Commissioner, Allied Control Commission.

2. The following dates are reported:

a. 14 February 1944: Papers in this case first received at this Headquarters from the Adjutant General, Fifth Army. Letter was dated 13 February 1944 (copy attached). Steps immediately taken to expedite the trial.

b. 22 February 1944: Trial set for this date, but could not take place because the accused had been hospitalized at request of the A.M.G. defense counsel. The removal of the accused to hospital was authorized by the Provost Marshal, upon the recommendation of a medical officer.

c. 11 March 1944: After 18 days of hospitalization, the accused was certified by a medical officer as physically fit to stand trial by 15 March 1944.

d. 15 March 1944: Accused tried, found guilty, and sentenced to death.

3. The delay in the trial from 16 December 1943 to 14 February 1944 was before the case came to A.M.G. Fifth Army. It is understood that the time was required by the investigations made by the Intelligence Sections. Attention

-2-

is invited to the fact that but a week elapsed between the date the papers in the case were received and the trial set.

4. The matter of alleged malnutrition of the accused has also been investigated. It appears that for some time prior to 13 February 1944, the accused, held under orders of C.I.C., was imprisoned in the Santa Maria jail. This institution is under the charge of the Provost Marshal, Fifth Army. That officer's report, dated 30 March 1944, and received in this office today, is attached. An officer from this Headquarters inspected this prison on 10 April 1944 and reports that the quarters occupied by prisoners are quite satisfactory as to cleanliness, and that the food is adequate in both quantity and quality.

5. The accused's condition was discovered by the A.M.G. officer detailed to defend him, and was forthwith brought to the attention of the Provost Marshal and the C.I.C. Thereafter, an army medical officer ordered the man's removal to hospital, and subsequently, after visiting him, the medical officer authorized his return to the Santa Maria jail. The medical officer also certified that the man was fit to stand trial by 15 March 1944. The accused was, accordingly, tried upon that date, as stated above.


EDGAR ERSKINE HUME,
Brigadier General, G.S.C.,
Senior Civil Affairs Officer.

EEH/z
INCLS:

1 copy ltr. AG/5th Army. 13/Feb/44.
1 " " Prov. Marshal/5th Army, 30/Mar/44.

COPY

U.S. SECRET
Equals British MOST SECRET and SECRET

HEADQUARTERS FIFTH ARMY
A.P.O. 464 U.S. ARMY

AG 000.51-J

CBM/HLO/LHX
FEB 13 1944

Subject: Trial of Alleged Spy.

To: Senior Civil Affairs Officer,
AMG, FIFTH Army.

1. The inclosed papers disclose a prima facie case of spying on the part of an Italian named Italo Palesse. This man is now in the custody of the Provost Marshal, Fifth Army, at the Santa Maria Jail.

2. By direction of the Commanding General, Fifth Army, this case is referred for trial before an Allied Military Government Court. It is the desire of the Commanding General that the accused be brought to trial as expeditiously as possible.

By command of Lieutenant General CLARK:

H.I. OSTLER,
Lt Col, A.G.D.,
Asst. Adjutant General.

7 Incls.

- Incl. 1 - Statement of Capt Chambers
- Incl. 2 - " " " Hammond
- Incl. 3 - Report of Interrogation, 202 CIC Det.
- Incl. 4 - Signed confession
- Incl. 5 - Arrest Report, 202 CIC Det
- Incl. 6 - Report of Interrogation, CSDIC, AFHQ
- Incl. 7 - Report of interrogation, No. 3 BI (b)

U.S. SECRET
Equals British MOST SECRET and SECRET

3400

"
BEST COPY POSSIBLE

C O P YWrapper Ind.

HQ, FIFTH ARMY, Officer of the Provost Marshal,
U. S. Army, 30 March 1944.

TO: Senior Legal Officer, AMG 5th Army, APO 464,
Army (Att: Lt Col J. V. M. Shields)

1. In response to your letter of 28 March, and response to the several additional questions put forward by you on the same subject through the office of Major Collins, AMG Liaison Officer, I would advise that the office of Provost Marshal was in charge of that part of the prison in which Palesse was detained. As regards your query as to who was responsible for feeding these G-2 prisoners prior to February 22nd, it is my understanding that they were being fed by the Italian jailer just as is the practice in all other parts of Italy. To my knowledge, G-2 5th Army has never fed any prisoners lodged in the S. Maria jail. The office of Provost Marshal did not feed prisoners prior to February 22nd. It is my understanding that the Italian jailer had access to such prisoners prior to February 22nd.

2. Immediately upon the report reaching this office that the food issued such prisoners in the S. Maria jail was not considered satisfactory, I arranged with the proper sections of 5th Army to have such prisoners fed "C" rations, and it was due in large part to the foresight and attention of Captain Whelan, Co. B, 101st M.P.Bn., that such prisoners received better and more substantial food than was the case previous to the above indicated report reaching this office.

3. In the specific case of the convicted spy named Palesse, it would appear that he received better attention while in the prison than was the case before he arrived in it. Upon his entrance he was suffering from scabies and gonorrhea. Due to these maladies he was transferred to hospital and placed under a physician's care, before being brought to trial.

KIRK BROADBENT
Col., Cav., CMP
Provost Marshal.

HEADQUARTERS
AND FIFTH ARMY (FIELD)
A.P.O. 464 U.S. ARMY

5th April 1944.

Subject: Case of PALISSE Italo.

To : Executive Commissioner.
H.Q., A.C.C. ✓ (2)

1. It is regretted that a reply to your letter of 19th March 44, reference 281/6/CA has been delayed. This is because, firstly, your letter did not reach us until 27th March, (a matter which was taken up with A.G.), and secondly, as we are still awaiting information from the P.M. Fifth Army.

2. A reply will be sent to you as soon as possible.

E.B. MAYHE,
Lt.Col. U.D.F.
for S.C.A.O.
AND FIFTH ARMY.

/kr

file
281
25
8
HEADQUARTERS
ARMED SERVICES COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L

/rlp.
23 March 1944.

SUBJECT : Palermo Italo.

TO : SACO, 5th Army.

Chief Commissioner has decided to defer his review of this case until he receives your report in reply to the Executive Commissioner's letter dated 19 March ref 281/6/CA.

Will you also please forward the Medical Certificate on 12 March 44 that the a/s was fit to stand his trial.

Gerald R. Hight
GERALD R. HIGHT,
Colonel,
Chief Legal Officer.

Copy to Executive Commissioner (Please let me have copy of report when received to place with record of case).

W/rel/3

3391

PA

281/7/CA.

19 Mar 44

Executive
Commissioner.

Legal Sub-
Commission.

Subject: Review of Sentences.

The attached papers regarding review of cases forwarded by Region 3 under un-numbered letter dated 15 March are referred to you for action, having apparently been forwarded to this office in error.

A. J. STUART,
Captain,
PA to Executive Comm.

3596

785017

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394

Regional Control and Military Government Section.

Ref: 381/6/GAR

19th March 1944

SUBJECT: Case of PALISSER Italo.

TO : B.C.A.C., AMG, 5 Army.

1. I refer to the case of PALISSER Italo who was sentenced to death by a General Court on 15th March.
2. I notice from the record of the case that the man was arrested on 16th December, 1943. He was not, however, brought for trial until 22nd February. He was then found to be unfit for trial owing to "malnutrition in prison and syphilis". (Your Senior Legal Officer's description).
3. Please report to me the reasons for the delay (16th December - 22nd February) in bringing this man to trial and your comments on the allegation of malnutrition. You should state when the man was confined, who was responsible for the prison and whether he was visited during his detention presumably on remand.

MGL/JG.

Brigadier,
Executive Commissioner.

Copy to: Legal Sub-Commission.

CS(6) to aad.

359.

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

785017

281/5/CA.
Executive
Commissioner.

19 Mar 44.
Legal Sub-
Commission

Subject: Case of PALMER Italo.

I should be glad if the proceedings could be
passed to the Chief Commissioner with as little
delay as possible.

See also my 281/5/CA dated 19th March 1944.

Brigadier,
Executive Commissioner.

3394

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

785017

HEADQUARTERS
ARMED CONTROL COMMISSION
APO 394

281/4/02

SUBJECT: Transmission of Documents
relating to Review of Sentences.

17 March 1944.

TO : Regional Commissioner, Region III.

I should like you to check the reason for the transmission of your un-numbered letter of March 15 signed by your Assistant Adjutant relating to review of sentences, which was sent direct to the Chief Commissioner.

BU 10/3.
[Signature]

MSH/RAC.

Brigadier,
Executive Commissioner.

339?

[Handwritten initials]

HEADQUARTERS
REGION I, ALLIED CONTROL COMMISSION
A.P.O. 304, U.S. Army

13 March 1944

Subject: Transmission of Enclosed Documents relating Review of Sentences.

To : Chief Commissioner, Allied Control Commission.

1. Pursuant to appropriate order, I enclose herewith the documents listed below relating to applications for review of sentences.

Legal File No.	Name	Court	Date of Trial	Document
093	De Rosa Giovanni	U.S. v. G.V.	10 Feb 44	Appl.
024	Esposito Carlo	"	11 " 44	"
080	Marino Franco	"	23 " 44	"
707	Punnett Anna	"	21 " 44	"
676	Valentino Maria	"	19 " 44	"
922	Abbate Giovanni	Dep. Court No. 2	3 March 44	Form B

Average

In case No. 922 the sentence is for more than 2 yrs. Consequently it is forwarded to you for Review.

2. In cases numbered 093, 094, 080, 707 and 676 all tried before Col. Gletthorpe, you are advised that Col. Gletthorpe this day verbally requested that these cases be reviewed upon the application for the appeal, his comments thereon together with the arrest sheets attached thereto.

For the Regional Commissioner:

1. Pursuant to appropriate order, I enclose herewith the documents listed below relating to applications for Review of Sentences.

Legal File No.	Name	Court	Date of Trial	Docu- ment
693	De Rosa Giovanniina S. Maria C.V.	10 Feb 44	Appl.	
694	Seppelito Carlo	"	11 " 44	"
668	Marino Franco	"	23 " 44	"
787	Tumietti Anna	"	21 " 44	"
676	Valentino Maria	"	15 " 44	"
922	Abbate Giovanni	Sup. Court No. 2 9 March 44	Form B	

In case No. 922 the sentence is for more than 2 yrs. Consequently it is forwarded to you for Review.

2. In cases numbered 693, 694, 668, 787 and 676 all tried before Col. Gilethorpe, you are advised that Col. Gilethorpe this day verbally requested that these cases be reviewed upon the application for the appeal. His comments thereon together with the arrest sheets attached thereto.

For the Regional Commissioner:

WILL C. BAKER,
1st Lt., S.M.C.,
Assistant Adjutant.

3392

HEADQUARTERS
ALLIED CONTROL COMMISSION
(BALZANO DETACHMENT)
LEGAL SUB-COMMISSION
AND 194

ACC/4083/L

3 February 1944

SUBJECT : Sentences.

TO : Colonel Charles M. Spafford.

Reference your letter headed "Hq Allied Military Government" dated 1 Feb 1944, no reference, under the above mentioned subject. It will be appreciated if you can let us know whether the criticism mentioned emanates from any particular area, or areas or has reference to any specific cases or class of cases as this will greatly facilitate action.

GERALD R. UNFORD,
Colonel,
Chief Legal Officer.

1st Ind

R.C. & M.C. Section, HQ. A.C.C.

Ref/281/GA .

7 February 1944.

TO: Legal Sub-Commission.

1. The criticism referred to in the basic letter appears in the P.W.B. Branch report issued by P.B.S. Statements in this report refer to all areas in occupied Italy with special emphasis upon the area surrounding Naples.

2. The Commanding General of P.B.S. has on several occasions orally represented to this office that sentences in the Naples area were too light, especially in cases which involved misappropriation of Allied property.

NORMAN E. FINKE,
Colonel, Cavalry,
Deputy Executive Commissioner.

11A 3591

SECRET

1319
TRANSFERS
ALLIED MILITARY GOVERNMENT
APO 394

1 February 1946

MEMORANDUM : Sentences

TO : Legal Submissions

1. A recent S.M.E. report includes the following statement:-

"It is to be noted that the tendency toward the use of the Allied Military Government is to place the burden of the black market offenders in particular."

2. It is suggested that this office consider the problems mentioned and take such action as may be required.

CHARLES H. SPOFFORD
Colonel, U.S.A.
W.O.S.A.G.

SECRET

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