

1803

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

785016

ACC

10000/142/567
(VOL. 1)

AL
NOV

1804

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

785016

567

ALLIED MILITARY COURT CASES, CORRESPONDENCE
NOV. 1943 - MAY 1944

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

4083/✓
2201/70/A

28 May 44

692

106

SUBJECT: Documents of Salerno province.

TO : C.I.O., Legal Sub-Commission, ACC, Salerno.
copy to R.L.O., Region 3

1. Early in April, when the work of the Legal Division of Region 2 was light, and that of Region 3 was heavy, this H.Q. volunteered to review 59 AMG cases decided in Salerno province subsequent to its transfer to Region 3.

2. While this H.Q. asked for records of the 59 cases in question, it had hardly bargained for a return to it of all Salerno files to cover all time, but that is what has been received!!

3. With a present staff of four IOs (including the RLO) shortly to be reduced to three, and the vastly increased amount of work, it is greatly regretted that this H.Q. can undertake no further correspondence re Salerno, and in all courtesy, all files regarding it are being returned to Region 3.

B.K. Cousins
D.E.S. COUSINS Lt. Col.
R.L.O.
REGION 2

83

AF HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
AFO 394

105

IC/jpl

22 April 44

ACC/4083/L

Subject : Espionage Cases.

To : H.Q., A.C.C.
PC & IG Sec.

1. As asked by Brigadier Lush, herewith a list showing death sentences in espionage cases which have been confirmed by the Chief Commissioner.

<u>NAME</u>	<u>DATE OF CONFIRMATION</u>
BERTOLI Mauro (**)	15 Jan. 44
CANCELLIERI Luigi (**)	15 Jan. 44
CANTELLI Marino	3 Apr. 44
MANICAVASI Enrico	3 Apr. 44
PALOSCHI Italo	18 Apr. 44.

2. Those cases followed by asterisks (**) were confirmed by General H.R. ALEXANDER.

GERALD R. UPJOHN
Colonel
Chief Legal Officer.

9:

JOINT HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

104

ACM/4003/L

IS/jpi
12 April 44

Subject: Death Sentences

To: SAC, AMB, 5th Army.
Hqs. (thru HQ) Regions I, II, and III.

With reference to this H. Q.'s letter ACM/4003/L of 25 March 44 and your answer thereto.

1. This H. Q. requires to know the respective ages of all persons on whom a death sentence has been imposed.
2. A list of such persons in your Region is attached; please add the appropriate age and return the list as soon as possible.

GERALD H. WILSON
Colonel
Chief Legal Officer.

Attached: 1 list.

Cover: SAC, AMB, 8th Army.
Hqs. (thru HQ) Region 5.

Please confirm that there has been no death penalty imposed in your area or supply the information asked for by above quoted letter and this letter.

93

U. S. RESTRICTED

BRITISH RESTRICTED

4 APR 1944

103

OUTGOING

LEGAL

GHS/ak

RESTRICTED

PRIORITY

FATIMA REAR

DISTANCE

2/04
2575

APR

041635

ALL NECESSARY STEPS BEING TAKEN PAREN TO DISTANCE FROM FATIMA REAR FROM LEGAL
 SIGNED MACFARLANE PAREN TO ENSURE THAT MILITARY WITNESSES ARE HEARD NOT LATER
 THAN EIGHT APRIL ONE NINE FOUR FOUR FD REFERENCE IS YOUR A TWO NINE EIGHT
 DATED THREE APRIL

AUTHENTICATED

E. J. ChioCCA
 E. J. CHIOCCA
 CWO, AUS
 Asst Adj

DISTRIBUTION:

- 1 - AG
- 1 - DGC
- 1 - DCC
- 1 - Legal ✓

92

U. S. RESTRICTED

Equals British RESTRICTED

3 APR REC'D

2700
102

4081

ALLIED CONTROL COMMISSION INCOMING MESSAGE /MST

SVC/RELAY NO.

I/C NO :

CLASS: NOT GIVEN

REF NO : A298

PREC : PRIORITY

FILED : APR 031730B

FROM : DISTHREE

REC'D : APR 031740B

Via Teletype

TO : FATIMA REAR FOR LEGAL SUB COM

Request you make every effort expedite trial of Italian concerned
in murder of GDSM Flannigan 2 Scots GDS near San Andrea. Probable
very great difficulty keeping military witnesses this country after
9 Apr.

DISTRIBUTION:

- 1 - AG File
- 1 - DSG Info
- 1 - DCC
- 1 - Legal ACTION

*Def. given to Mr. [unclear]
Reg. [unclear] at 1400 hrs. on 4/10/46
after failure to contact [unclear]
[unclear] [unclear] will send in names for
General Court to take all necessary
steps to ensure that the military witnesses
are heard not later than 4/10/46*

*Gable sent extract 3
on 4.10.46 [unclear]*

Col Latella

*Do you know this case please? 91
No. [unclear]*

Frank

4083
ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

30th March 1944

RLE 013.031/FLV

SUBJECT : Death Sentences

TO : C.I.O. - A.C.C. Headquarters (Rear)

Reference ACC/4083/L dated 25th March 1944.

The attached forms are returned, all available particulars having been filled in. This office has no knowledge of any other cases where the death sentence was imposed.

For Lt. Colonel A.H. KANCOCK:

Frank L. Vecchiola
FRANK L. VECCHIOLA
Captain, JAGD.
Regional Legal Officer.

js.

HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
A.P.O. 394, U.S. Army
LEGAL DIVISION

BTK/pv
3/6071/L

30 March 1944

Subject: Death Sentences.

To : Chief Legal Officer, A.C.C., Legal
Sub-Commission, Salerno.

1. Reference to your letter ACC/4083/L
25 March 1944.

2. This office has no records of
any case tried in Region 3 in which the Court
imposed a death sentence.

3. I will keep you advised of all
cases in which the Court imposes a death sentence.

John W. Chapman

JOHN W. CHAPMAN,
Lt.Col., J.A.C.D.,
Reg.Chief Legal Officer.

4083

File

(99)

HEADQUARTERS
AND 5th ARMY
A.P.O. 454 U.S. ARMY
Legal Division.

203/CA/71.
26 February 1944.

Subject : Imposition of sentence of imprisonment of
5 years.

To : Chief Legal Officer,
Rear HQ. ACC. Legal Sub-Commission,
A.P.O. 394.

With reference to your letter of 21st February
1944 number ACC/4083/1. I have to inform you that
during the month of January 1944 sentences in excess
of five years was passed upon four persons accused of
espionage. All four were condemned to death, two
were executed and in the case of the remaining two the
Military Governor commuted the sentence to one of
imprisonment for twenty years.

J. M. Shields
Lt. Col.
J. M. Shields,
Lt. Col.,
Senior Legal Officer,
A.P.O. 5th Army.

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACW/jpl
25 March 44

ACC/4083/L

SUBJECT : DEATH SENTENCES.

TO : SLOs, AMs, 5th and 8th Army.
SLOs. (thru HQ) Region I, II, III, IV, and V.

1. In order that an accurate and up to date index may be kept at this Headquarters of cases where the death sentence was imposed the attached forms showing particulars of such cases tried in your Region have been prepared

2. Will you please check the accuracy of said forms by referring to records in your possession and insert all available particulars in the appropriate spaces.

3. A specimen is enclosed to show how such forms are to be filled.

4. If there have been other cases than those on enclosed forms will you please prepare and send particulars thereof on similar forms.

5. This Headquarters has the records of Covella, Bertolli, Montaldi and Cancellieri which will be forwarded to Region III shortly.

A.C. WHIGHT
Major
for Chief Legal Officer

COPY to : File ACC/4052/L

Col Wilmer (Reo No 4 Region) Confirms
personally that there has been NO
such case in his region IV

10
11 April 44

785016

4/11

FOUR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APR 394

(97)

MIA/jpl

25 March 44

ADG/4533/L

Subject : Death Benefits.

To : AUSA (John DOE) Region III, IV, and V.
SIC AND, 5th Army.

1. Reference our letter 4083/L, dated 25 March 40.
2. This office has no records of any cases tried in your region in which the court imposed a death sentence, consequently no forms are being forwarded with the exception of the specimen.

A.C. W. 102H
Major
for Chief Legal Officer.

Copy to: File ACC/ACBY/L

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

(96)

ACC/4053/L

ACW/jpl
25 March 44

SUBJECT : DEATH SENTENCES.

TO : SLOC, AMB, 5th and 8th Army.
ALOC, Region I, II, III, IV, and V.

1. In order that an accurate and up to date index may be kept at this Head Quarters of cases where the death sentence was imposed the attached forms showing particulars of such cases tried in your Region have been prepared.

2. Will you please check the accuracy of said forms by referring to records in your possession and insert all available particulars in the appropriate spaces.

3. A specimen is enclosed to show how such forms are to be filled.

4. If there have been other cases than those on enclosed forms will you please prepare and send particulars thereof on similar forms.

5. This Head Quarters has the records of Covella, Bertolli, Montaldi and Cance-lieri which will be forwarded to Region III shortly.

A.C. SPICHT
Major
for Chief Legal Officer.

COPIES TO : File ACC/4052/L

TRANSLATION

MINISTRY OF JUSTICE & PRISON

Salerno, 17 March 1944.

Prot No. 25030

SUBJECT: Execution of Death Sentence of DI LANDRO Filippo.

TO : Questore of Salerno,
Legal Sub-Com. Salerno, ACC.
Procuratore del Re, Salerno.

The request to carry out the death sentence concerning the above condemned should be addressed to the competent Procuratore del Re since Italian law has abolished capital punishment for civilians, and also because it is a question of a condemnation by an Allied Military Court.

MINISTRO.

8:

TRANSLATION

94

MINISTER OF JUSTICE & PARDONS

Salerno, 17 March 1944.

Prot No. 25035

SUBJECT: Execution of Death Sentence of DI LANDRO Filippo.

TO : Questore of Salerno.
Legal Sub-Com, Salerno, ACC.
Procurettore del Re, Salerno.

The request to carry out the death sentence concerning the above condemned should be addressed to the competent Procuratore del Re since Italian law has abolished capital punishment for civilians, and also because it is a question of a condemnation by an Allied Military Court.

MINISTRO.

83

Filippo Siffo



(93)

MINISTERO DI GRAZIA E GIUSTIZIA

14212

DIREZIONE GENERALE AFFARI PENALI

Protoc. N. *25035*

Risp. al foglio N. 5523/Div. 3ab.
del 15-3-1944

Salerno 11, 17 MAR. 1944

OGGETTO: Esecuzione della condanna a morte di
DI LANDRO Filippo suo Luigi.-

AL QUESTORE DI SALERNO

ALLA SOTTOCOMMISSIONE LEGALE
DI CONTROLLO SALERNO

AL PROCURATORE DEL RE

SALERNO

La richiesta della esecuzione della pena di morte relativa al condannato in oggetto dovrà essere rivolta al competente Procuratore Militare del Re sia perchè la legge italiana ha abolito la pena di morte per i civili, sia perchè trattasi di un condannato del Tribunale Militare Allento.-

IL MINISTRO

[Signature]

82

4083

HEADQUARTERS
AMG 5th ARMY
A.P.O. 464 U. S. ARMY
Legal Division

File 92
AMY

208/CA/30.
10 March 1944.

Subject : Wrongful possession of property of the Allied Forces.

To : Deputy Chief Legal Officer,
Rear HQ., A.C.C.

1. With reference to your letter ACC/4083/L of 5th March 1944 I enclose copies of

- (i) my letter 3/6104/L of 4th December 1943 to the JAG 5th Army and to JAG PBS.
- (ii) replies thereto by JAG PBS and JAG 5th Army both dated 7th December 1943.
- (iii) letter from the JAG 5th Army dated 14th December 1943 covering a copy of AR 210-65 which is also attached.

2. With reference to the third paragraph of your letter it was not stated or implied in my memorandum that a soldier could sell articles purchased at P. X.'s but only that there was no prohibition against giving and that it was not an offence to give such articles away.

89

J. M. Shields
Lt. Col.

J.V.M. Shields,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

81

92A

HEADQUARTERS
AMG 5th ARMY
A.P.O. 464 U. S. ARMY
Legal Division

208/CA/30.
10 March 1944.

Subject : Wrongful possession of property of the Allied Forces.
To : Deputy Chief Legal Officer,
Rear HQ., A.C.C.

1. With reference to your letter ACC/4083/L of 5th March 1944 I enclose copies of

- (i) my letter 3/6104/L of 4th December 1943 to the JAG 5th Army and to JAG PBS.
- (ii) replies thereto by JAG PBS and JAG 5th Army both dated 7th December 1943.
- (iii) letter from the JAG 5th Army dated 14th December 1943 covering a copy of AR 210-65 which is also attached.

2. With reference to the third paragraph of your letter it was not stated or implied in my memorandum that a soldier could sell articles purchased at P. X.'s but only that there was no prohibition against giving and that it was not an offence to give such articles away.

J. V. M. Shields
Lt. Col. 81
J.V.M. Shields,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

1 8 2 1

(9215)

COPY/SDR.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6104/L
4 December, 1943.

Subject: Possession of Allied goods.

To : J.A.G., HQ., 5th Army, A.P.O. 464, U.S. Army.

1. Many cases have been tried in the Allied Military Courts where the offence charged was that the accused had wrongfully received or was in possession of property of the Allied Forces or of a member thereof. In the early stages of our occupation of this country these cases were tried upon the basis that where any Italian national was in possession of any Allied Forces property this possession must necessarily be wrongful as the property belonged to the Governments of the United States or of Britain and if issued to a soldier was for his personal use and consumption and could not be illegally donated, sold, or in any other manner disposed of to any Italian national.

2. With the opening of Post Exchange stores in this area, however the legal question now arises as to whether goods sold to members of the Forces at such stores and thereafter given or sold by those purchasers to Italian civilians is wrongfully received by or in the possession of the latter under the terms of Proclamation 2, Art. 2, Section 40. It is an offence in the British Army for soldiers to dispose of such goods in any manner to civilians and they in turn are criminally liable if they receive such goods. I am not aware if a similar military order pertains in the United States Army, and I should be grateful to have your opinion and ruling on this point.

3. A further question upon which I would also be glad to have your opinion in this connection is the donation or sale by Italian civilians of cigarettes and sweets of the same

where the offence charged was that the accused had wrongfully received or was in possession of property of the Allied Forces or of a member thereof. In the early stages of our occupation of this country these cases were tried upon the basis that where any Italian national was in possession of any Allied Forces property this possession must necessarily be wrongful as the property belonged to the Governments of the United States or of Britain and if issued to a soldier was for his personal use and consumption and could not be illegally donated, sold, or in any other manner disposed of to any Italian national.

2. With the opening of Post Exchange stores in this area, however the legal question now arises as to whether goods sold to members of the Forces at such stores and thereafter given or sold by those purchasers to Italian civilians is wrongfully received by or in the possession of the latter under the terms of Proclamation 2, Art. 2, Section 40. It is an offence in the British Army for soldiers to dispose of such goods in any manner to civilians and they in turn are criminally liable if they receive such goods. I am not aware if a similar military order pertains in the United States Army, and I should be grateful to have your opinion and ruling on this point.

3. A further question upon which I would also be glad to have your opinion in this connection is the donation or sale by soldiers to Italian civilians of cigarettes and sweets of the same type as those issued in rations or purchasable at P.X. which were in fact sent to the donees or sellers as gifts from the United States.

4. As you will appreciate where accused persons received for example cigarettes, sweets, or other commodities from soldiers who are unidentifiable, it is impossible for the court to decide whether the goods found in their possession were issued as rations to soldiers, bought by them at a P.X store or received in a parcel from home. Unless the burden of proving that these goods were in the possession of the soldier as a result of purchase by him or receipt from home is placed upon the accused in almost every case it would be impossible for the prosecution to prove the source of the goods and accordingly all persons accused of this type of offence would need to be acquitted.

5. When I have received your views upon this question,

92C

I shall submit the whole matter to the C.L.O., A.M.G., 15th Army Group for his consideration.

J.V.M. Shields,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

Copy to J.A.G. P.B.S.

1st Ind.

HDL/hp

HEADQUARTERS PENINSULAR BASE SECTION, Office of the Judge Advocate,
A.P.O. 782, 7 December 1943.

To : Senior Legal Officer, Region 3.

1. Regarding foregoing inquiry, Army Regulations provide that Post Exchanges shall be established to provide for the sale to members of the military establishment of articles needed for their use or consumption, but the regulations do not contain any provision preventing the purchaser from disposing of the goods purchased as he may see fit. In fact, within the United States, most Post Exchanges feature for sale articles suitable for gift purposes upon such occasions as the approach of Christmas. The Post Exchange in Naples sells many articles of local manufacture suitable for gifts, such as cameos, coral jewelry, gloves, inlaid wooden boxes, etc. These articles are evidently intended to be purchased by members of the military establishment for gift purposes.

2. Since rationed articles are transported by the Army to this theater and sold through Post Exchanges operated by military personnel, it is within the power of the military authorities to provide as a condition of sale that such articles will be purchased only for the consumption of the purchaser and not for gift or resale. Such an order is not at present in effect so far as I am aware. If such an order were to be promulgated it should, in my opinion, be either an

I shall submit the whole matter to the C.L.O., A.M.G., 15th Army Group for his consideration.

J.V.M. Shields,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

Copy to J.A.G. P.B.S.

1st Ind. HDL/hp
HEADQUARTERS PENINSULAR BASE SECTION, Office of the Judge Advocate,
A.F.O. 782, 7 December 1943.

To : Senior Legal Officer, Region 3.

1. Regarding foregoing inquiry, Army Regulations provide that Post Exchanges shall be established to provide for the sale to members of the military establishment of articles needed for their use or consumption, but the regulations do not contain any provision preventing the purchaser from disposing of the goods purchased as he may see fit. In fact, within the United States, most Post Exchanges feature for sale articles suitable for gift purposes upon such occasions as the approach of Christmas. The Post Exchange in Naples sells many articles of local manufacture suitable for gifts, such as cameos, coral jewelry, gloves, inlaid wooden boxes, etc. These articles are evidently intended to be purchased by members of the military establishment for gift purposes.

2. Since rationed articles are transported by the Army to this theater and sold through Post Exchanges operated by military personnel, it is within the power of the military authorities to provide as a condition of sale that such articles will be purchased only for the consumption of the purchaser and not for gift or resale. Such an order is not at present in effect so far as I am aware. If such an order were to be promulgated it should, in my opinion, be either an order operative throughout the entire theater of operations or at least

consumption, but the regulations do not contain any provision preventing the purchaser from disposing of the goods purchased as he may see fit. In fact, within the United States, most Post Exchanges feature for sale articles suitable for gift purposes upon such occasions as the approach of Christmas. The Post Exchange in Naples sells many articles of local manufacture suitable for gifts, such as cameos, coral jewelry, gloves, inlaid wooden boxes, etc. These articles are evidently intended to be purchased by members of the military establishment for gift purposes.

2. Since rationed articles are transported by the Army to this theater and sold through Post Exchanges operated by military personnel, it is within the power of the military authorities to provide as a condition of sale that such articles will be purchased only for the consumption of the purchaser and not for gift or resale. Such an order is not at present in effect so far as I am aware. If such an order were to be promulgated it should, in my opinion, be either an order operative throughout the entire theater of operations or at least an order operative throughout occupied territory. If the Fifth Army, the U. S. Navy, PBS and other organizations operating Post Exchanges were to issue such an order, it would cover sales within the territory covered by Region 3.

3. As to the sale or gift of merchandise shipped to the Military personnel within this theater from Britain or the United States, I see no possibility of placing any limitation whatever. Such articles become the absolute property of the recipient and may be disposed of as he sees fit. Postal regulations at home might be established preventing the shipment out of Britain or the United States of all rationed articles, but the effect of such a regulation on the troops would, in my opinion, do more damage than the unauthorized gift of such articles to local citizens.

92D

4. In my opinion the amount of merchandise coming in by postage is such a small item that it is not worthy of consideration. We will cooperate to the utmost extent on the sale or gift to local citizens of rationed articles purchased through Post Exchanges, if that is the desire of A.M.G.

HAROLD D. LE MAR,
Colonel, J.A.G.D.,
Judge Advocate.

COPY/SDR.

HEADQUARTERS FIFTH ARMY
A.P.O. 464 U. S. ARMY
Office of the Army Judge Advocate

CRM/s (40-L)
7 December 1943.

Lieutenant Colonel J. V. M. Shields,
Senior Legal Officer,
AMG, Fifth Army.

Dear Colonel Shields:

I have your letter of 4 December relative to the problem of proof in allegations of wrongful receipt or possession by civilians of property of the Allied Forces or a member thereof. In particular your present problem raises the question whether goods sold to members of the Allied Forces at United States Army Post Exchange and thereafter given or sold by the purchasers to Italian civilians are wrongfully received by or in possession of the latter under the terms of Proclamation 2, Article 2, Section 40. You request my opinion and ruling on the point whether there is any order pertaining to the United States Forces prohibiting such sale. You also refer to the case of gift or sale by soldiers to Italian civilians of cigarettes and sweets of the same type as those issued in rations or purchasable at Post Exchanges which goods were in fact sent to the donees or sellers as gifts from the United States.

With respect to goods of the latter category, I know of no order or regulation which restricts in any fashion the sale or gift of such goods sent to the donees or sellers as gifts from the United States.

With respect to goods of the former category, I may say at the outset that I know of no order or regulation which prohibits gift or resale of goods purchased at a Post Exchange. Nevertheless, it is recognized that many items for sale in Post Exchange in this area are on a rationed basis; that is, only so much or so many may be purchased in a specified period. Moreover in the forward areas some of these items are distributed gratuitously to troops. Although the case has not to my knowledge been tested I suspect that, in the absence of an order or regulation, it would be difficult under our Articles of War to carve out a military offense from gift or sale to an Italian civilian of goods purchased at a Post Exchange.

In connection with the matter discussed in the preceding

92F

paragraph, I have no doubt of the authority of the various United States military commanders concerned, such as the Commanding General, Fifth Army, Peninsular Base Section and 12th Air Force, to issue orders or regulations prohibiting the sale or gift to civilians of goods purchased at a Post Exchange. Thereafter it would, of course, be an offense to make such sale or gift. If you deem the problem of sufficient importance to justify such action, I shall be pleased to convey your recommendation in this regard to the Commanding General, Fifth Army.

You will note that I have expressed no opinion concerning the matter of proof of the cited wrongs before AMG courts. As I was not certain that you desired such opinion I refrained from expressing my views thereon.

G.B. MICKELWAIT,
Colonel, J.A.G.D.,
Army Judge Advocate.

COPY/SDR.

92G

HEADQUARTERS FIFTH ARMY
A.P.O. 464, U. S. ARMY
Office of the Army Judge Advocate

CEM/x
14 December 1943.

Lieutenant Colonel J. V. M. Shields,
Chief Legal Officer,
AMG, Fifth Army.

Dear Colonel Shields,

Apropos of your recent inquiry with respect to restrictions upon resale of merchandise purchased at United States Post Exchanges, I am pleased to furnish you with a copy of recent Army Regulations establishing such a restriction. I believe this regulation which of course applies to all United States troops will accomplish the purpose of the local regulations previously suggested by me.

C.B. MICKELWAIT
Colonel, J.A.G.D.,
Army Judge Advocate

1 Inc.
Cpy AR 210-65 Ch 4.

COPY/SDR.

924

AR 210-65

C 4

POSTS, CAMPS, AND STATIONS
ARMY EXCHANGES

CHANGES)

No. 4)

WAR DEPARTMENT

Washington 25, D.C., 19 November 1943.

AR 210-65, 19 March 1943, is changed as follows:

13 Sales.

f. Resale.

- (1) The resale by Military personnel of merchandise purchased at retail in an Army exchange is prohibited.
- (2) The privilege of purchasing at Army exchanges will be denied completely in discretion of post commanders to any civilian who will resell merchandise purchased at retail at an Army exchange.
- (3) For the purpose above expressed, the receipt of money or any other article or thing of value in exchange for such merchandise will be deemed to be a sale.
- (4) Nothing herein contained will be construed to prohibit military personnel from receiving actual reimbursement without profit for merchandise purchased at an exchange as a matter of economy, convenience, or necessity as agent for other members of the military forces.

(A.G. 331.3 (13 Nov 43).) (C 4, 19 Nov 43.)

BY ORDER OF THE SECRETARY OF WAR:

G.C. MARSHALL,
Chief of Staff.

OFFICIAL:

J.A. ULIO,

Major General.

DISTRIBUTION: A; E. The Adjutant General.

4083

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

ACG/24

91

File

21 February 1944.

ACG/4083/L

SUBJECT: Sentence of 5 years imprisonment.

TO : SLO AND 5th ARMY
SLO AND 8th ARMY.

Will you please let this HQ know as soon as possible the number of cases heard in January 1944 in which sentence of five years imprisonment or more was passed.

Only the actual number is required - not particulars.

A.P. Wright

A.C. WRIGHT
Major
for Chief Legal Officer.

1st Ind. 4/3/44

To: CLO, Rear HQ, A.C.C., Legal Subcommittee 11/23/44

1. None.

73

Edwin J. Mercer

EDWIN J. MERCER, Major, 5th
Chief Legal Officer, APO 394

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/gmf

(90)

ACC/4083/L

5 March 1944.

SUBJECT: Theft of Wire in Region 3.

TO : MLO (thru RC) Region 3.

It was reported at the recent meeting of Regional Commissioners and Subcommissions that a serious and even growing problem was being experienced in Region 3 because of the theft of wire from lines, particularly in rural areas. As you know the military authorities rightly and properly take a very serious view of these cases and you will instruct officers sitting in Courts dealing with such cases to deal with the offenders in exemplary manner.

G. R. UPJOHN, Colonel
Chief Legal Officer.

72

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

ACC/4083/L

5 March 1944

SUBJECT : Wrongful possession of property of the Allied Forces .

TO : S.I.O., 5th Army .

88

1. Reference 208/CA/30 of 1st March 1944 .

2. In the course of the review of cases at this HQ. the claim is often made by the accused that cigarettes were given or sold to him or exchanged for other goods . It was my thought that if soldiers were told they might freely give or sell or exchange with civilians cigarettes for their goods, the black market in these articles would increase. I was advised that cigarettes etc. purchased at U.S. Army exchanges were only for the personal use or consumption of the soldier. Army exchange ration cards so read .

3. However, if the appropriate JAG officer has ruled that a soldier may give or sell or exchange with civilians articles purchased at Army exchange, that would seem to settle the question .

4. I will appreciate it if you will send me a copy of the ruling for future reference .

Richard M. Wilner,
Lt. Colonel, GAC,
Deputy Chief Legal Officer

HEADQUARTERS
AMG 5th ARMY
A.P.O. 464 U. S. ARMY
Legal Division

208/CA/30
1st March 1944.

Subject : Wrongful Possession of Property of the Allied Forces.

To : Deputy Chief Legal Officer
Rear HQ. A.C.C.

1. In your letter of 21 February 1944 (ACC/4083/L.) it is stated it is unwise to "suggest authority of soldiers to make gifts." My memorandum (208/CA/30) of 12 January 1944 is directed only to AMG personnel and intended to advise them that proof of a gift from a soldier of articles purchased at an Army Exchange (PX) would be a defence to a charge of wrongful possession on the ground that no regulation or order purports to prohibit such gifts.

2. AR 30-2990, par. 1e, 10 August 1938, prohibiting the gift of subsistence stores, is not thought to apply to articles purchased from an Army Exchange. This provision is in the section of the regulation relating to the "Quartermaster Corps" and refers to articles procured from the Quartermaster depots or directly from dealers. No where is there a suggestion that "subsistence stores" include articles obtained from an Army Exchange; on the contrary, the regulations relating to Army Exchanges (AR 210-65) seem to negate such a conclusion, for the term "subsistence stores" is not used therein to denote the articles sold, and the resale of Exchange articles is expressly prohibited without prohibiting the gift thereof or referring to AR 30-2290, thereby implicitly authorizing gifts. Such is the opinion of the Fifth Army and PBS Judge Advocates, who were consulted before the release of my 208/CA/30 directive. In fact the PBS Judge Advocate's opinion refers to the fact that in the U.S., most Post Exchanges

only to AMG personnel and intended to advise them that proper procedure for the gift from a soldier of articles purchased at an Army Exchange (PX) would be a defence to a charge of wrongful possession on the ground that no regulation or order purports to prohibit such gifts.

2. AR 30-2990, par. 1e, 10 August 1938, prohibiting the gift of subsistence stores, is not thought to apply to articles purchased from an Army Exchange. This provision is in the section of the regulation relating to the "Quartermaster Corps" and refers to articles procured from the Quartermaster depots or directly from dealers. No where is there a suggestion that "subsistence stores" include articles obtained from an Army Exchange; on the contrary, the regulations relating to Army Exchanges (AR 210-65) seem to negate such a conclusion, for the term "subsistence stores" is not used therein to denote the articles sold, and the resale of Exchange articles is expressly prohibited without prohibiting the gift thereof or referring to AR 30-2290, thereby implicitly authorizing gifts. Such is the opinion of the Fifth Army and PBS Judge Advocates, who were consulted before the release of my 208/CA/30 directive. In fact the PBS Judge Advocate's opinion refers to the fact that in the U.S., most Post Exchanges feature for sale articles suitable for gift purposes.

3. In view of the foregoing, I trust you agree that my directive of 208/CA/30 need not be amended.

J. V. M. Shields

J. V. M. Shields,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

K. L. Wilson

FOR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

87
out/col

2 March 1944.

ACC/4083A

SUBJECT: Handling of Enemy Agents.

TO : HQ ACMP

Ref your ACMP/14017/G(Ib) dated 27 Feb. 44. This HQ is only too anxious to cooperate in any measures that may be taken to ensure speedy trials provided that the investigation is not unduly hurried and the evidence and presentation of the case thereby unduly impaired.

Your letter does not suggest and it is believed that there are no grounds for suggesting that any of the delays which you are seeking to overcome are the concern of this HQ, but if you have any suggestions to make, please do so.

G. H. UPTON, Colonel
Chief Legal Officer.

68

1807

SUBJECT: Handling of Suspect Agents.

Headquarters

United Central Intelligence Agency

101-100-SECRET FIDELITY AND SECURITY

6027/100/11/10/10

17 February 1955

11

Page 11

1. It is requested that this document be placed in the hands of certain cases of report and only agents who are in a position to handle it be allowed to handle it. It is requested that this document be placed in the hands of certain cases of report and only agents who are in a position to handle it be allowed to handle it.

2. There is no necessity to be lenient for agents to be assigned to agents or to be subject to a trial. It is requested that this document be placed in the hands of certain cases of report and only agents who are in a position to handle it be allowed to handle it.

3. There have been cases in which the agent has been assigned to the capture of an agent and his trial. This is a very serious matter and it is requested that this document be placed in the hands of certain cases of report and only agents who are in a position to handle it be allowed to handle it.

4. It is requested that certain cases be assigned to agents who are in a position to handle it. It is requested that this document be placed in the hands of certain cases of report and only agents who are in a position to handle it be allowed to handle it.

5. The procedure for the handling of agents who are in a position to handle it is requested that this document be placed in the hands of certain cases of report and only agents who are in a position to handle it be allowed to handle it.

68

it is considered that, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

3. The subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

4. It is recommended that the subject be placed in the custody of his father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

5. The procedure for the subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

6. The following recommendations are made for the subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

(a) The subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

(b) The subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

(c) The subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

7. The subject's father, in view of the fact that the subject is a minor and his father is not married, it is recommended that the subject be placed in the custody of his father.

(86)

8. It is requested that Districts and F.B.I. should adopt a similar procedure as regards S.I.(s) and USMC in respect of a unit created or disbanded in their territory.

9. A.C.C. and C.S.D.I.C. are respectfully requested to do everything possible to assist in the rapid conduct of these cases.

D. J. C. Lee
Lieut. Colonel,
Chief of General Staff,
A.C.C.P.

DISTRIBUTION:

Fifth Army.....	1 - 2
Eleventh Army.....	1 - 2
1 S.I.(a) Unit.....	1 - 2
2 S.I.(b) Unit.....	1 - 2
3 S.I.(c) Unit.....	1 - 2
C.S.S. Spec. Dep. G-2, Fifth Army.....	1 - 2
USMC (AW) o/a 57 Army.....	1 - 2
USMC Sub Section (Cst) o/a 5 District.....	1 - 2
Security Intel. Section, A.C.C.....	1 - 2
Chief Legal Officer, A.C.C.....	1 - 2 (Loss Arguments)

For Information:

G-2, A.C.C.....	1 - 2
G.S.I., 2 District.....	1 - 2
G.S.I., 3 District.....	1 - 2
G-2, F.B.I.....	1 - 2
File.....	1 - 2
Spurs.....	1 - 20

(85)

ALLIED CONTROL COMMISSION
SICILY REGION HQ.

APO 394

15 February 1944

File: RLE 013.04/HD

SUBJECT: Ficarra and Galloto.

TO : C.L.O., A.C.C. HQ., APO 394 (Salerno Detachment).

1. With reference to para. 2 of your letter ACC/4083/L dated 11 February 1944, the original Record of Proceedings in this case was called for by the Legal Division at 8 Via Bari about the time of the move to the mainland and has never since been returned to this Headquarters. When the Appeals were received and the Record was asked for it could not be found and this Division was informed that it had probably been sent forward to the mainland in error.

2. In these circumstances a fresh copy of the Record was prepared from notes in the possession of the prosecutor and was submitted to Colonel Pollock, the President of the Court, who approved and signed the Record which was submitted with the documents for review.

For Lt. Col. POLETTI:

William R. Jordan
WILLIAM R. JORDAN,
Lt. Col. C. A. C.,
Regional Legal Officer.

jd

File.

88

ALLIED CONTROL COMMISSION
SICILY REGION HQ.
APC 394

File: RLE 013.04/HD

15 February 1944

SUBJECT: Picarra and Galioto.

TO : C.L.O., A.C.C. HQ., APC 394 (Salerno Detachment).

1. With reference to para. 2 of your letter ACO/4083/L dated 11 February 1944, the original Record of Proceedings in this case was called for by the Legal Division at 8 Via Bari about the time of the move to the mainland and has never since been returned to this Headquarters. When the Appeals were received and the Record was asked for it could not be found and this Division was informed that it had probably been sent forward to the mainland in error.

2. In these circumstances a fresh copy of the Record was prepared from notes in the possession of the prosecutor and was submitted to Colonel Pollock, the President of the Court, who approved and signed the Record which was submitted with the documents for review.

For Lt. Col. POLETTI:

WILLIAM R. JORDAN,
Lt. Col. C. A. C.,
Regional Legal Officer.

(79)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

/gnt

27 February 1944

ACC/4983/L

SUBJECT: Trial of Bonasera Giuseppe.

TO : Executive Commissioner, ACC.

1. For your information I enclose the record and correspondence in the above case which was tried in Region I.

2. In the course of my review of the case I noted that Major Dring had apparently given to the accused two suits found in a house the former was occupying. I therefore asked for a report which has just been received.

3. Even if he had done so, Major Dring could not have legally requisitioned the two suits in question.

4. After the enclosed file has served its purpose I will appreciate it if you will return it to me.

RICHARD H. WILMER
Lt. Col. SAC
Deputy Chief Legal Officer.

*Taken by Col Wilmer
28/2/44*

64

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 374

ES/gaf

22 February 1944

ACC/A086/L

SUBJECT: Arrest and Trial of Italian Civilians at Toronto.

TO : H.E. The Minister of Pardon and Justice.

In accordance with the agreement reached at our meeting of 21 Feb 44
I am enclosing the list of cases on the above subject. Please return the list
after you have extracted the necessary information.

Chap
A. R. THACKRAH
Major
for Chief Legal Officer.

63
63

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APC 394

ACC/4083/L

RHW/jpl

25 February 1944

SUBJECT : Mail Thefts.

TO : Deputy Executive Commissioner.

1. In accordance with letter of Colonel Spofford then D.C.C.A.O. dated 31 January 1944. AMC/319, I am reporting the case of PASTORA Giovanni.

2. The accused was arrested in MATERA, Region II, where he was found with certain Allied Property, the result of a mail theft in Bari on 4 January 1944. The accused was tried on two charges:

(a) Interference with communication by mail. Proclamation No. 2, Article I, Section (13);

(b) Being in possession of Allied Property. Proclamation No. 2, Article II, Section (10).

3. A General Military Court convicted the accused on both charges and on the first charge sentenced him to death. On his second charge there was an alternative sentence of 20 years.

4. As the act under the first charge was committed at Bari, unoccupied territory, where the Proclamation had no effect, the reviewing authority has found it necessary to reverse the conviction under the first charge because of the lack of jurisdiction. The 20 year sentence under the second charge has been affirmed.

5. The first charge apparently was based on interference with communication rather than on robbery, because it was felt that as the mail might be destined for occupied territory, the act of interference in unoccupied territory became a continued offence in occupied territory, thus giving an Allied Military Court jurisdiction. This theory could not be supported, and there was no proof of destination.

6. Under powers reserved upon restoration of territory Allied Military Courts may now function in territory restored to the Italian Government. This includes Apulia where Bari is located, but only for crimes committed after 10 February 1944. While it is not expected that Allied Military Courts will function extensively in territory under the administration of the Italian Government, one can always be convened to try a case of extraordinary importance affecting the Allied interest, when it is not thought that an Italian Court can efficiently deal with it.

For review of this case see file 4083/1 - folio 113

- 2 -

7. The record in the PASTORE case indicates that the mail cars which were robbed were not under proper guard and one of them was left unlocked.

RICHARD H. WILMER

Lt. Col. C.A.C.
Deputy Chief Legal Officer.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

RHW/jpl

AOC/4083/L

25 February 1944

SUBJECT : Mail Thefts.

TO : Public Safety Sub-Commission.

1. As your Sub-Commission may be interested in mail thefts I am reporting to you the case of PASTORE Giovanni.

2. The accused was arrested in MATERA, Region II, where he was found with certain Allied Property, the result of a mail theft in Bari on 4 January 1944. The accused was tried on two charges:

(a) Interference with communication by mail. Proclamation No. 2, Article I, Section (13);

(b) Being in possession of Allied Property. Proclamation No. 2, Article II, Section (40).

3. A General Military Court convicted the accused on both charges and on the first charge sentenced him to death. On his second charge there was an alternative sentence of 20 years.

4. As the act under the first charge was committed at Bari, unoccupied territory, where the Proclamation had no effect, the reviewing authority has found it necessary to reverse the conviction under the first charge because of the lack of jurisdiction. The 20 year sentence under the second charge has been affirmed.

5. The first charge apparently was based on interference with communication rather than on robbery, because it was felt that as the mail might be destined for occupied territory, the act of interference in unoccupied territory became a continued offense in occupied territory, thus giving an Allied Military Court jurisdiction. This theory could not be supported, and there was no proof of destination.

6. Under powers reserved upon restoration of territory Allied Military Courts may now function in territory restored to the Italian Government. This includes Apulia where Bari is located, but only for crimes committed after 10 February 1944. While it is not expected that Allied Military Courts will function extensively in territory under the administration of the Italian Government, one can always be convened to try a case of extraordinary importance affecting the Allied interest, when it is not thought that an Italian Court can efficiently deal with it.

For review of this case see file 4083/1 - folio 113

- 2 -

7. The record in the PASTORE case indicates that the mail cars which were robbed were not under proper guard and one of them was left unlocked.

RICHARD W. WILMER

Lt. Col. C.A.C.
Deputy Chief Legal Officer.

4083

Copy of telegram received 26.2.44 from Region 2.
Original in file 4083/L)

Date: 25 Feb. 44. *76*

(75)

66
Reference ACC/4066/L of 21 Feb. 44, para 3, requested in 2201/57/6 of 17 Feb. 44 that Lt. Col. Willis report at MATERA as soon as possible.

Jurisdiction over Apulia not retrospective. Seems prosecution for mail robberies must be in Italian Courts.

R.L.O. Region 2.

38

Confid

TELEGRAMMA

L'omesso ricevuto deve essere staccato
prima e consegnato al latore.

N. B. - Primo lembo da piegare

(11111)

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

44

AOC/1085/1.

26 February 1944

303/801 : Retention of money by C.I.C., P.B.I. in violation of order of court.

TO : Executive Commissioner, AOC.

1. Enclosed is a copy of a letter dated 23 February 1944 from the HIO, Region III and record of the case referred to. The officer who tried the case as a Superior Court is now the HIO, Region III.

2. From the record it is abundantly clear that the trial judge was entirely correct in his decision. On the facts presented, any British or American Court would have come to the same conclusion. But irrespective of that I regard it as a serious matter when the determination of one of our own courts is disregarded by our own military authorities. Not only is the retention of such money under the orders of General Pender contrary to all laws of natural justice and morality, but is in contravention of Art. 46 of the Hague Convention.

3. May steps be taken please to procure the return of this money in accordance with the order of the Court.

GEORGE E. URJOHN,
Colonel,
Chief Legal Officer.

56

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

(12)

ACE/1083/L

RHW/101

25 February 1944

SUBJECT: Case of PASTORE Giovanni.

TO : RLC (thru RC) Region II.

1. The record in this case has been carefully and fully reviewed.
2. The conviction of the accused on the first charge was for a violation of Proclamation No. 2 Article I Section (13) reading as follows:

"Any person who interferes with communication by mail, courier, telegraph, telephone, cable, radio, or otherwise, or destroys or damages any facility of communication shall, upon conviction by an Allied Military Court, be liable to punishment by death or by imprisonment or fine or both, as the court may determine."

3. It has been adequately proved by the prosecution that a mail robbery was committed by the accused in Bari which was not in occupied territory and in which no proclamation of Allied Military Government was in force. This charge based on interference with communications rather than on robbery (Proclamation No. 2, Article I, Section (11)) was evidently entered on the theory that the mail was destined for occupied territory (of which there was no proof in the record) hence the act was an interference with communication by mail in occupied territory where the accused later was arrested and where he brought certain of the stolen goods.

4. The act of interference was committed outside the jurisdiction of Allied Military Government and the fact that such act might have had some consequential damage on communication in occupied territory, if proved, does not make the act so committed an act of interference in occupied territory as to subject the accused to the jurisdiction of an Allied Military Court in occupied territory for trial on the charge of interference, any more than if an individual who in the United States robbed mail destined for Great Britain would be subject to trial later in Great Britain for such interference should he proceed there with certain of the stolen goods.

5. The only forum for a charge based on interference or robbery committed in Bari in January 1944 was the appropriate Italian Court functioning in the place where the act occurred.

- 2 -

6. The conviction and sentence in respect to the first charge is therefore reversed.

7. Inasmuch as the court, on the basis of adequate, corroborated evidence, has properly found the accused guilty under the second charge, namely, wrongful possession in occupied territory of property of the Allied Forces, and has recorded that a sentence of 20 years imprisonment would be imposed in the absence of the death sentence, the sentence under the second charge of 20 years imprisonment will be considered the sentence in this case and as such is hereby affirmed.

RICHARD H. WILMER

Lt. Col. C.A.C.
Deputy Chief Legal Officer.

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 374

HHS/jpl

25 February 1944

ACC/4083/L

MEMORANDUM

TO : V.P. Adm. Sec.

1. Because of your interest in this subject I am handing to you herewith informally and for your private information the record in the case of PASTORE Giovanni, including my opinion as reviewing officer.
2. It appears from the record that the robbing except for the last six bags was committed without difficulty and that mail carriages were being left unlocked and without adequate guard. We are calling attention of Public Safety to this situation.
3. In accordance with a recent directive from Colonel Spofford I am reporting to his successor the result of the PASTORE trial.

RICHARD H. WILDER

Lt. Col. G.A.C.
Deputy Chief Legal Officer.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GCH/gmf

24 February 44

4083
ACC/4016/L

SUBJECT: Case of Castagnaro (Sabotage).

TO : Major Mattei (Officer i/c FSP District No. 2).

For your information this individual has been sentenced to six years reclusion by the Beri Court.

G.C. HANNAFORD
Major
Officer i/c Italian Section
for Chief Legal Officer.

ACC/4016/L

4083
~~4188~~

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
LEGAL DIVISION
APO 394, U.S. Army

(40)

JWC/mc
3/6104/L

23 February 1944

Subject: Retention of money by C.I.D., P.B.S. in violation of order of court.

To : Chief Legal Officer, Legal Sub-Commission,
Allied Control Commission.

1. ⁽⁴⁾ Reference to the second paragraph of your ACC/4120/L, 16 February 1944, requesting a report on the above subject.

2. On 4 January 1944, the Superior Military Court at Naples heard the case of Carmine Di Napoli who was charged with illegal possession of 9 cases of cigarettes. The evidence disclosed the following facts: An Italian, Di Lucia, informed a Pvt. Hood that he, Di Lucia, "could find buyers for any kind of rationed goods". Hood reported the incident. The C.I.D. of P.B.S. then borrowed 10 cases of cigarettes from Fort Area, procured Di Lucia as a guide, and started out to sell the cigarettes. Di Lucia directed the C.I.D. agents to the home of Carmine Di Napoli. There the agents "made a deal to sell the cigarettes" to Di Napoli. Di Napoli did not have money enough to pay the price of 100,000 lire asked by the agents. But after borrowing what he could from the neighbours he finally accumulated 75,900 lire which the agents said would be acceptable for the 9 cases of cigarettes (the 10th case had been stolen from the truck). As soon as Di Napoli paid over the money the agent who received the money placed him under arrest. 31

3. There was no evidence of any connection between Di Lucia and Di Napoli. There was no evidence that Di Napoli had either formulated a criminal intent or initiated any criminal action prior to the time he was induced to do so by the C.I.D. agents. Obviously the agents intended

neither to sell nor to deliver possession of the cigarettes.

4. The Court found the accused not guilty and ordered that the 75,900 lire be returned to him. Later the same day, 4 January, a written order was delivered to 1st Lieutenant Aime E. Borgeré, C.M.P., commanding the C.I.D. who was in possession of the money.

5. Lieutenant Borgeré refused to pay the money to Di Napoli and reported the matter to Brigadier General Pence. I am informed that General Pence then directed that the money not be paid to Di Napoli.

6. I am sending forward, attached hereto, the court record in the case.

John W. Chapman
JOHN W. CHAPMAN,
Lt.Col., J.A.G.D.,
Regional Chief Legal Officer.

Enclosure:
Court Record Reference
No.24, File No. 160.

50

(67)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

ACW/gmf

21 February 1944.

ACC/4083/L

SUBJECT: Sentence of 5 years imprisonment.

TO : SLO AND 5th Army
SLO AND 8th Army.

Will you please let this HQ know as soon as possible the number of cases heard in January 1944 in which sentence of five years imprisonment or more was passed.

Only the actual number is required - not particulars.

A.C. WRIGHT
Major
for Chief Legal Officer.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee.
APO 394.

ORU/gmf

60

21 February 1944.

~~ACC/4066/L~~

SUBJECT: Promotions.

TO : RLO Region II.

1. Thank you for your 2201/58/1 dated 17 Feb re Capt. P. Backhouse, which I am taking up with G-1.

At long last I believe they are going to get a move on over British promotions.

2. If you have any recommendations for promotion in the legal division of your Region they go through your R.C. but I shall be grateful for a list of your recommendations to him as I am able to assist at this HQ.

3. Reference my cable No. 2322 dated 15 Feb. 44 I have received no reply as to when and where Lt. Col. Willis is to report for prosecution duties.

G. B. UPTON
Colonel
Chief Legal Officer

Copy to: File 4083/L

60

65

SEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

LE/gmf

21 February 1944.

AGC/4083/L

SUBJECT: Wrongful Possessions of Property of the Allied Forces.

TO : SAC AME 5th Army.

15A

1. With reference to Memorandum 208/CJ/30 of 12 Jan 44 addressed to SC/OCs of all corps, just received at this Headquarters, and statement in paragraph 2 thereof that an American soldier who purchases from a Post Exchange violates no regulation or order in making a gift of what he has purchased, attention is called to latest Army Regulations available to this office as follows:

AR30-2290 para 1c (10 Aug 1938) states: "Subsistence stores will not be transferred gratuitously, nor will they be obtained, issued, sold or disposed of except as authorized by regulations."

AR210-65 para 13f c4 (19 Nov 1943) states:

"f.1. The resale by military personnel of merchandise purchased at retail in an army exchange is prohibited."

"f.3. For the purposes above expressed, the receipt of money or any other article or thing of value in exchange for such merchandise will be deemed to be a sale."

"f.4. Nothing herein contained will be construed to prohibit military personnel from receiving actual reimbursement without profit for merchandise purchased at an exchange as a matter of economy, convenience or necessity as agent for other members of the military forces."

2. In view of foregoing, it would seem unwise to suggest authority of soldiers to make gifts, even in small amounts, of articles purchased at Army Post Exchange.

47

RICHARD H. WILMER
Lt. Col. CAC
Deputy Chief Legal Officer.

12/84

19 Feb. 44

Memo to Col. Wilber:

The Army Exchange Service Station card issued at Naples at the present time bears the following statement:

"All Exchange merchandise is sold for the personal use and consumption of authorized purchasers. See para 1e and 3, a, (3) AR 30-220 and para 13 f-c-4, AR 210-65."

AR 30-220, para 2, (2) recapitulates the classification of those entitled to purchase at Army Post Exchanges, including members of the Army, Navy and Marine Corps.

Para 1e of AR 30-220 declares:

"Substance stores will not be transferred gratuitously, nor will they be obtained, issued, sold or disposed of except as authorized by regulations."

AR 210-65 para 13-f-c-4 (Amendment of 13 Nov. 1943) declares:

"f.1. The resale by military personnel of merchandise purchased at retail in an Army exchange is prohibited."

"f.3. For the purposes above expressed, the receipt of money or any other article or thing of value in exchange for such merchandise will be deemed to be a sale."

"f.4. Nothing herein contained will be construed to prohibit military personnel from receiving actual reimbursement without profit for merchandise purchased at an exchange as a matter of economy, convenience or necessity as agent for other members of the military forces."

Robert H. Dunbar
Captain.

4083

ALLIED CONTROL COMMISSION

INCOMING

MESSAGE /msg

22 FEB 1944

64

1094

SVC/RELAY NO.

M/C NO : ~~RECEIVED~~ 19/22

CLASS: NOT GIVEN

REF NO: RT/240

PREC : ROUTINE

FILED : FEB 191240A

FROM : ACC REGION II

REC'D : FEB 221500A

TO : FATIMA FOR CLO

By DRL

Ref GR 58 BT of 15-2-43. May Lt Col Willis please report here as soon as possible proceeding later to Bari Ref. 2201/57/3.

DISTRIBUTION:

- 1 - AG
- 1 - DGC Info
- 1 - DGC Info
- ✓ 1 - Legal ACTION

Fib.

Already answered

45

(63)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APC 394.

/gnt

20 February 1944.

ACC/4083/L

SUBJECT: Discussion of Cases Pending Review.

TO : RLO Region III.

1. Ref your letter 3/6131/L dated 17 Feb. 44.
2. The Legal Subcommittee approves the stand you have taken and propose to take ~~active~~ with respect to discussion of cases pending review.

G. R. UNJOHN
Colonel
Chief Legal Officer.

4

CONFIDENTIAL

4083

(62)

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
LEGAL DIVISION
APO 394, U.S. Army

JWC/mo

3/6/31/L

17 February 1944

Subject: Discussion of cases pending review.

To : Legal Sub-Commission, Allied Control Commission.

1. This communication is written for your information and such comment as you may desire to make.

2. This office is continually besieged, not only by Italians but also by Allied Force and A.M.G. officers, who desire to discuss cases pending for review for the expressed purpose of influencing the reviewing officer to substantially reduce sentences .

3. On 15 February 1944, Colonel Markol of the staff of Brigadier General Hume called at this office requesting that a sentence of imprisonment be suspended. On being advised that a petition of appeal had been filed in the particular case which necessitated forwarding the record to higher authority for action, he proposed that he be permitted to withdraw the petition in order that action in accordance with his suggestion could be taken at this level. Needless to say, his request was refused.

4. The desire of Italians to exert influence in judicial matters is understandable in the light of their recent history and experiences but the actions of Allied Force and A.M.G. officers in this regard is not understandable. The practice has always been considered reprehensible under Anglo-Saxon judicial systems.

5. This office has refused consistently to permit Italians to discuss pending cases. However, in the case of officers it is extremely difficult, if not impossible, to refuse to listen to them, particularly when they are officers of high rank. Officers are permitted access to this office without the necessity of indicating beforehand the purpose of the visit. Hence, they are able to open a discussion of a case and a refusal to listen at that stage may have the appearance of discourtesy.

6. It is my intention to recommend for review by higher authority any case which is discussed with me for the purpose of obtaining a mitigation of sentence .

John W. Chapman

JOHN W. CHAPMAN,
Lt.Col., J.A.G.D.,
Regional Chief Legal Officer.

(61)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 584.

/guf

ACC/4083/L

20 February 1944.

SUBJECT: No. of cases of sentence of 5 years or upwards.

To : V.P. Administrative Section, A.C.C.

The number of cases heard in January 44 in which sentence of five years imprisonment or more was passed is as follows:

Region 1	-	45
Region 2	-	5
Region 3	-	2
Region 4	-	1

G. R. UFFCHN
Colonel
Chief Legal Officer.

41

U.S. CONFIDENTIAL Equals British CONFIDENTIAL

SURGOING

GMA/ak

(60)

2350

CONFIDENTIAL

1083

NOTIFY

FEB 20 1957

FATIMA

LISTING

A IN ALL CASES WHERE SUBPOENAS ISSUED ON ARRESTS MADE BEFORE ELEVEN
 THE SHOULD BE PROCURED WITH IN ALLIED MILITARY COURTS TO TO DISTRICT FOR
 AND UNION TWO FROM FATIMA FROM OFFICE HIGHER MAGISTRATE TO B TO CASES
 WHERE SUBPOENAS NOT OBTAINED ON ARRESTS NOT MADE BEFORE ELEVEN THE SHOULD BE
 HANDLED OVER TO ITALIAN COURTS AS SUGGESTED AND YOUR SUGGESTION OF
 DISCUSSION WITH PROSECUTOR AT BULFORD IS APPROVED TO REFERENCE IN YOUR TWO
 TWO THREE ONE FIVE ONE SEVEN CHARLES OF FIFTEENTH TWO ONE NINE FOUR
 FOUR TO BE OBVIOUS TO INVITING ITALIAN JUDGES TO SIT AS COUNSEL OF
 MILITARY COURTS AT ITALIAN TRIALS MUST BE GOVERNED ENTIRELY BY ITALIAN
 RULES OF PROCEDURE.

DO NOT
 UNCLASSIFIED

AUTHENTICATED

E. J. CHIOCCA
 Capt. USA
 Asst. AGJ

DISTRIBUTION:

- 1-70 Mile
- 1-SEC
- 1-Dep. Chief Com.
- 1-Legal Sub-Com

Col. J. H.
 Chief of Staff
 for Chief Civil Affairs Officer

U.S. CONFIDENTIAL Equals British CONFIDENTIAL

(59)

GPH/gmf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

20 February 1944.

ACC/4083/L

SUBJECT: Cable.

TO : Adjutant General's Department, ACC.

Request that the following cable be prepared.

ROUTINE

CONFIDENTIAL

TO REGION II

FROM ACC LEGAL

- (A) ALL CASES WHERE SUMMONSES ISSUED OR ARRESTS MADE BEFORE 11 FEB SHOULD BE PROCESSED WITH IN ALLIED MILITARY COURTS PD
- (B) CASES WHERE SUMMONS NOT SERVED OR ARRESTS/MADE BEFORE 11 FEB SHOULD BE HANDLED OVER TO ITALIAN COURT AS SUGGESTED AND YOUR SUGGESTION OF DISCUSSION WITH PROSECUT AT MATERA IS APPROVED PD. NO OBJECTION TO INVITING ITALIAN JUDGES TO SIT AS GUESTS OF MILITARY COURTS BUT ^{Italian} ~~CONSEQUENT~~ TRIALS MUST BE GOVERNED ENTIRELY BY ITALIAN RULES OF PROCEDURE PD YOUR 2201/51/C of 15 FEB 1944 REFERS PD

G. R. UNJOHN
Colonel
Chief Legal Officer.

39

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

15 Feb 44

Ref: 2201/51/EC

Subject: Pending Cases

To : The Chief Legal Officer
Legal Sub-Commission A.C.C., Salerno

1. Ref. para 2 (a) of General Administrative Instruction No 2, the position in the Province of Matera is one in respect of which it is thought that a report should be made to you at once.

2. Immediately prior to the restoration of territory strong action was being taken in connection with failures to amass grain. Many prosecutions had taken place. In Grotto 68 cases were heard, and fines paid to the tune of about Lr 2,000,000. As a result all the grain was duly amassed save for an entirely trivial quantity.

3. Other summonses had been issued and served, and similar cases are set down for trial as follows:-

- (a) Palliano - 36 cases for 16 and 17 Feb.
- (b) Trana - over 300 cases for 18, 19, 21, 22, 23, 24, and (if necessary) 25 Feb.
- (c) Pistocchi - 58 cases for 28 and 29 Feb.

4. The committee that has been appointed to assess the amount of grain due to be amassed has worked most efficiently, and the prosecutor in all these cases is now ready to bring 633 cases for trial in Matera with an aggregate of grain to come in of 16,100 quintals. The summonses have all been prepared, but not served, and as things stand now, no action will be taken without instructions.

5. These proceedings have, it is thought, been well worth while, as they have produced the grain which is so urgently needed. It would be regrettable if as a result of the restoration of territory the further amass of 16,100 quintals from Matera were avoided, and a substantial amount from other rich areas, such as Bernalda.

6. It is suggested that the whole matter be discussed with the Prefect of Matera with a view subsequently to advising that proceedings should take place in the Italian Courts. A few of the Italian Judges might be invited to sit as guests of the A.C.C. at the Courts to be held at Trana and Pistocchi in order to observe the methods that have been adopted, and the simple system of proving the failures on behalf of individuals to amass, even when certain of the harvest had been destroyed, as was the case at Grotto.

Matthew Carr

D.E.S. COUSINS, Lt. Col.
RCIO
Region II

4-083

ALLIED CONTROL COMMISSION INCOMING MESSAGE /sk

949
57

SVC/RELAY NO.	M/C NO : 8/18
CLASS: NOT GIVEN	REF NO: RT/236
PREC : NOT GIVEN	FILED : 172296A FEB
FROM : ACC REGION II	REC'D : 181455A FEB
TO : FATIMA FOR LEGAL	

3 cases involving total of 5 persons.

DISTRIBUTION:

- 2 - AG Files
- 1 - D.S.G. - Info
- 1 - Legal S.C. - Info

4083

(56)

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

JWC/mc
3/6059/L

16 February 1944.

Subject: Sentence of 5 Years Imprisonment. (No. of cases).

TO : Legal Subcommittee, Hq. A.C.C.

1. Reference A.C.C./4083/L, 11 February 1944,
subject as above.

2. The records in Region III disclose two
cases tried in January, 1944 in which sentences of
five years imprisonment or more were passed.

For the Regional Civil Affairs Officer:

Douglas N. Batson
DOUGLAS N. BATSON,
1st Lt., C.M.P.
Actg. Asst. Adj. Gen.

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

55

JWC/mc
3/6059/L

16 February 1944.

Subject: Sentence of 5 Years Imprisonment. (No. of cases).

TO : Legal Subcommittee, Ho. A.C.C.

1. Reference A.C.C./4083/B, 11 February 1944,
subject as above.

2. The records in Region III disclose two
cases tried in January, 1944 in which sentences of
five years imprisonment or more were passed.

For the Regional Civil Affairs Officer:

WNB
DOUGLAS N. BATSON,
1st Lt., C.I.P.
Actg. Asst. Adj. Gen.

30

EGW/QB

(54)

4083

HEADQUARTERS REGION 4 MAIN
ALLIED MILITARY GOVERNMENT
A.P.O. 394

TO : C.L.C., Legal Sub-Commission, A.C.C.
FROM : R.C.L.C., Region 4
SUBJECT : Sentence of 3 Years Imprisonment (No. of Cases)
REFERENCE : R4/LE/Reg./6/3
DATE : 15 February 1944.

Reference your AGC/4083/L of 11 February 1944:-
One Case.

H. G. Willmer

H.G. WILLMER, K.C.
Colonel,
R.C.L.C., Region 4

RESTRICTED

131714A

4083

H-2103

CABLE

3225

53

RESTRICTED PRIORITY TELEGRAM

RECEIVED AT
PBS SIGNAL MESSAGE CENTER

13 FEBRUARY 1944

RESTRICTED

PRIORITY

CG PBS FOR FARGO

NONE

SEARS FOR ROBERTI

131615A

131714A

S-7112

REG-57

SENTENCED TO 5 YEARS OR MORE IN SICILY DURING JANUARY WERE 45
PERSONS.PBS DISTR:INFO : HQ ACC
SEC
CGACC DISTR:

(INFO) ADM SEC (3)

GROUP 10-100
UNCLASSIFIEDCable Int.
Chief Admin. Officer
for Chief Com. Admin. Officer

33

RESTRICTED

4083

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

52

Ref/282/4/CA

LVD/mrd
17 February 1944

SUBJECT: Uniformity of Powers of Review

TO : Legal Subcommittee

39

Reference your ACC/4083/L of 8 February 1944, the Executive Commissioner instructs me to inform you that the suggestions contained in your communication are approved and that it is satisfactory for you to draft the necessary instructions to implement them.

By Command of Lieutenant General MASON MacFARLANE:



NORMAN E. FISKE
Colonel, Cavalry
Deputy Executive Commissioner

REAR HEADQUARTERS
JLIEDO OUTRAGE COMMISSION
LEGAL SUB-COMMISSION.
APO 394.

10th February, 1944.

REFERENCE : AGO/14063/1/1.
SUBJECT : Cases of Iezsi and Ianssi.
TO : S.L.G., AGO., 8th Army.

1. The enclosed case returned affirmed except for evacuation. By Proclamation No. 4, Art. V, Sec.3, it would appear that only a General or Superior Court could make such an order. However it could seem that the Police on their own authority might be able to make such persons return to their usual place of residence.

2. In the case of the Iezsis and Ianssi the plea was not guilty yet there is in the record no reasons of the evidence presented by the prosecution. However, the short resumé of evidence for the defence clearly indicates the guilt of the accused. In any event the sentence of 18 days imposed on 25 January 1944 has now been executed.

3. For any intelligent review there must be a statement of evidence included in every record with names of witnesses and a synopsis of their testimony.

Case 513

RICHARD H. TIMEN.
Lieutenant-Colonel,
Deputy Chief Legal Officer.

AG/now.

14083/1

SUBJECT: Record of Summary Court Proceedings.

Rear AD Eighth Army.

61

ON/15/

P.B.L.D. 14083/1.

14 Feb 44.

Copy: C.L.O. Hq., AD.
Legal Subcommission.

1. Major Kuera frequently reports "6 found guilty - 1 acquitted" when there are more than one accused. It is probable that records and indices are kept on these cases and from such report it would be impossible to register the names of those found guilty. Records should show the individuals found guilty and those found not guilty.
2. The sentences meted out by Lieut. Landman for unlawful possession of M.D. property are insufficient to act as a deterrent. 4083/1
3. Major Patterson will be suspended from trial of further cases by order of Group Captain as soon as I can secure execution of order. His sentences are an inducement to crime rather than a deterrent. 4083/1

Edwin J. Morser, Maj. Ord.
Senior Legal Officer,
AD Eighth Army. S(1)

4683
HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 39.

SECRET.

40

REF: 39/33/2.

14th February 1944.

Subject: Execution of enemy agents.

To : R.C.S.(I).,
H.Q., A.C.M.F.

1. The arguments put forward in your AGP/1401/7/CI(b) dated 8 Feb. 44 were submitted to the C.C.C.-in-C. when the proceedings of the cases referred to were laid before him. The main argument against execution of the miners was that in similar circumstances under English law, the death penalty would not have been imposed.
2. It would, of course, be improper for any appellate authority to agree generally to the detailed proposal made in your paragraph five, for every case must be judged on its merits.
3. I do, however, appreciate the danger involved and I will submit to the Chief Commissioner, to whom the C.C.C.-in-C. has now delegated the powers to confirm death sentences, your view that age alone should not be the decisive factor in executing a death sentence.

131/27.

17/2/44
H. B. LAMB,
Brigadier,
Executive Commissioner.

Copy to: Legal Sub-Commission (with letter under reference).

SUBJECT:- Execution of enemy agents.

Headquarters
Allied Central Mediterranean Force

BR SECRET - U.S. SECRET

AGF/11.01/7/GI(c)

8 Feb 44.

40
A

Brig. M.S. LHS,
Executive Commissioner, A.C.C.

1. Of the four enemy agents recently sentenced to death by Allied Military Court, the two who were aged over 18 were executed, and the two aged under 18 were reprieved, the latter's sentence being commuted to 20 years imprisonment.

2. The desirability of reprieving youths under 18 on humanitarian grounds is fully appreciated, but it is feared that such a practice may have a detrimental effect on our security. ^{eventually}

3. The following analysis shows the ages of the first twenty-seven agents captured in the Argy areas during the last two months.

- 1 aged under 17
- 6 aged 17
- 8 aged 18
- 13 aged over 18

Thus a quarter of those captured were aged under 18.

4. It seems likely that the enemy may well continue to employ youths of 17 and even under. Moreover, it is feared that it may become generally known or suspected that youths under eighteen are not executed when convicted of espionage. Such knowledge or belief would no doubt facilitate the enemy's efforts to recruit such youths as agents.

5. It is therefore suggested that the present policy of reprieving those under 18 should be reconsidered and that, in future, anyway a proportion of those aged 17 should be executed, if convicted and sentenced to death.

6. Your views on this matter would be appreciated.

Confidential

CONFIDENTIAL
UNCLASSIFIED

Brigadier,
B.G.S.(I).
A.C.M.F.

28

Chief of Staff
for Chief Civil Affairs Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
Salerno Detachment.

GR/SMF

39

8 February 1944.

ACC/4083/L

SUBJECT: Uniformity of Powers of Review.

TO : The Executive Commissioner, A.C.C.

1. The position regarding the examination of judicial records and review of less serious cases is not uniform.
2. Under Proclamation No. 4, Article VII, Section 2 every record of trial by an Allied Military Court is to be transmitted to the C.I.O. for examination and file. By Section 3 the record of any case may on the recommendation of the C.I.O. and shall in the event of a sentence exceeding 2 years imprisonment or a fine of 50,000 Lire be reviewed by the C.O.A.O. or by an officer not below the rank of Lt. Col. appointed by him. Such reviews take place at A.C.C., HQ.
3. Proclamation No. 14, imposes on R.O.L. the duties of examination and file and empowers an R.O.A.O. to appoint a judicial officer not below the rank of Major for the purpose of reviewing cases where there has been no petition of appeal and the sentence does not exceed 2 years imprisonment or a fine of 50,000 Lire.
4. There has been no such express provision in relation to Army areas and the position concerning examination and review of records in the 5th Army area differs from that in the 8th Army area. In the 5th Army area the S.I.O. (Lt. Col. Schilden) has been given the powers similar to those of an R.O.A.O. In the 8th Army area it was intended that these powers should be exercised by the C.I.O. of the 15th Army Group and they were not given to the S.I.O. of the 8th Army area (Major Mercer). Consequently on the disappearance of A.M.S. 15th Army Group, the record of trial now has to be transmitted to the C.I.O. for examination and file in accordance with Proclamation No. 4.
5. In the interests of uniformity it is suggested that the S.I.O.s of both 5th and 8th Army areas should now be given by administrative instruction powers similar to those of an R.O.A.O.

for examination of the C.L.O. and shall in the event of a recommendation of the C.L.O. be reviewed by the C.C.A.O. 2 years imprisonment or a fine of 50,000 Lire be reviewed by the C.C.A.O. Such or by an officer not below the rank of Lt. Col. appointed by him. Such reviews take place at A.C.C., HQ.

3. Proclamation No. 14 imposes on R.C.L.O.s the duties of examination and file and empowers an R.C.O. to appoint a judicial officer not below the rank of Major for the purpose of reviewing cases where there has been no petition of appeal and the sentence does not exceed 2 years imprisonment or a fine of 50,000 Lire.

4. There has been no such express provision in relation to Army areas and the position concerning examination and review of records in the 5th Army area differs from that in the 8th Army area. In the 5th Army area the S.L.O. (Lt. Col. Shields) has been given the powers similar to those of an R.C.O. In the 6th Army area it was intended that these powers should be exercised by the C.L.O. of 15th Army Group and they were not given to the S.L.O. of the 8th Army area (Major Mercer). Consequently on the disappearance of A.M.C. 15th Army Group, the record of trial now has to be transmitted to the C.L.O. for examination and file in accordance with Proclamation No. 4.

5. In the interests of uniformity it is suggested that the S.L.O.s of both 5th and 8th Army areas should now be given by administrative instruction powers similar to those of an R.C.L.O.

27

GERALD D. JOHN

Colonel
Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

ACW/gmf

35

11 February 1944.

ACC/4083/L

SUBJECT: Sentence of 5 Years Imprisonment. (No. of Cases).

TO : Regional Commissioners, Regions 3 & 4.

Will you please let this HQ know as soon as possible
the number of cases heard in January, 1944 in which sentence
of five years imprisonment or more was passed.

Only the actual number is required - not particulars.

A. C. WRIGHT
Major
for Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee.

30

10 February 1944

ACC/4083/L

SUBJECT: Sentences.

TO : Chief Legal Officer, Region III (thru RCAC).

Reports have been received that the Italians are critical of the leniency of Allied Military Courts, particularly in black market cases in the Naples area. The Commanding General P.B.S. also complains of light sentences in cases of misappropriation of Allied property.

In my view a general directive to officers on sentences does little if any good and frequently operates unjustly; but I want you to take this matter up individually with officers sitting on Courts in your area and to see that sentences appropriate to the circumstances are given.

GERALD UPJOHN
Colonel
Chief Legal Officer.

182

29

HEADQUARTERS
ALLIED CONTROL COMMISSION
(SALERNO DETACHMENT)
LEGAL SUB-COMMISSION
APO 394

ACC/4083/L.

3 February 1944

SUBJECT : Sentences.

TO : Colonel Charles M. Spofford.

20

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.

G. R. Upjohn
GERALD R. UPJOHN,
Colonel,
Chief Legal Officer.

4083

1st Ind

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

Ref/281/CA

7 February 1944.

443

TO: Legal Sub-Commission.

20

1. The criticism referred to in the basic letter appears in the P.W.S. 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.

William S. Fiske
WILLIAM S. FISKE,
Colonel, Cavalry,
Deputy Executive Commissioner.

24

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
Salerno Detachment.

GP/maf

28

ACC/4083/L

8 February 1944.

SUBJECT: Uniformity of Powers of Review.

TO : The Executive Commissioner, A.C.C.

1. The position regarding the examination of judicial records and review of less serious cases is not uniform.
2. Under Proclamation No. 4, Article VII, Section 2 every record of trial by an Allied Military Court is to be transmitted to the C.L.O. for examination and file. By Section 3 the record of any case may on the recommendation of the C.L.O. and shall in the event of a sentence exceeding 2 years imprisonment or a fine of 50,000 Lire be reviewed by the C.C.A.C. or by an officer not below the rank of Lt. Col. appointed by him. Such reviews take place at A.C.C., HQ.
3. Proclamation No. 14 imposes on R.C.L.O.s the duties of examination and file and empowers an R.C.A.O to appoint a judicial officer not below the rank of Major for the purpose of reviewing cases where there has been no petition of appeal and the sentence does not exceed 2 years imprisonment or a fine of 50,000 Lire.
4. There has been no such express provision in relation to Army areas and the position concerning examination and review of records in the 5th Army area differs from that in the 8th Army area. In the 5th Army Area the S.L.O. (Lt. Col. Shields) has been given the powers similar to those of an R.C.L.O. In the 8th Army area it was intended that these powers should be exercised by the C.L.O. of 15th Army Group and they were not given to the S.L.O. of the 8th Army area (Major Mercer). Consequently on the disappearance of A.M.G. 15th Army Group, the record of trial now has to be transmitted to the C.L.O. for examination and file in accordance with Proclamation No. 4.
5. In the interests of uniformity it is suggested that the S.L.O.s of both 5th and 8th Army areas should now be given by administrative instruction powers similar to those of an R.C.L.O.

or by an officer not below the rank of Major for the purpose of reviewing cases where there has been no petition of appeal and the sentence does not exceed 2 years imprisonment or a fine of 50,000 Lire.

3. Proclamation No. 14 imposes on R.C.L.O.s the duties of examination and file and empowers an R.C.O. to appoint a judicial officer not below the rank of Major for the purpose of reviewing cases where there has been no petition of appeal and the sentence does not exceed 2 years imprisonment or a fine of 50,000 Lire.

4. There has been no such express provision in relation to Army areas and the position concerning examination and review of records in the 5th Army area differs from that in the 8th Army area. In the 5th Army Area the S.L.O. (Lt. Col. Shields) has been given the powers similar to those of an R.C.O. In the 8th Army area it was intended that these powers should be exercised by the C.L.O. of 15th Army Group and they were not given to the S.L.O. of the 8th Army area (Major Mercer). Consequently on the disappearance of A.M.O. 15th Army Group, the record of trial now has to be transmitted to the C.L.O. for examination and file in accordance with Proclamation No. 4.

5. In the interests of uniformity it is suggested that the S.L.O.s of both 5th and 8th Army areas should now be given by administrative instruction powers similar to those of an R.C.L.O.

00
20

GERALD UPJOHN

Colonel
Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
(SALERNO DETACHMENT)
LEGAL SUB-COMMISSION
APO 394

27

ACC/4083/L

3 February 1944

SUBJECT : Sentences.

TO : Colonel Charles M. Spofford.

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 me 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. UPJOHN,
Colonel,
Chief Legal Officer.

SECRET

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 394

79
4083
20

1 February 1944

SUBJECT : Sentences

TO : Legal Subcommittee

1. A recent P.W.B. report includes the following Statement:-

" Criticism is to be heard of what is termed the leniency Shown in the courts by the Allies toward criminals. The wish is to see heavier sentences imposed upon the black market offenders in particular"

2. It is requested that your office consider the problems mentioned and take what ever action, if any, is required.

Charles M. Spofford

CHARLES M. SPOFFORD
Colonel, G.S.C.
D.C.A.A.O.

SECRET

Ref: CP/Lea 4.

30th. January, 1944.

SUBJECT: Summary Court Sentences imposed-----28/1/44.

Re: Major R/M/Patterson---C.A.O. CANTALUPO.

FROM: P. S. L. O. CAMPOBASSO PROVINCE.

The undersigned has to-day received records of four accused tried on above named date---three for travelling without Permits, and one for possession of W.D. property---to wit Boots. I have turned the £1,000 (one thousand Lire) fine on the Piccolo Antonio case over to the Finance Officer and attached his receipt to the record.

I am sorry to be critical of sentences passed, but all four sentences are highly unsatisfactory. First, in regard to the travel cases, the Army definitely wishes to discourage travel and giving suspended sentences will not accomplish that result. The other bad feature of this matter is that all three persons were forwarded here for "evacuation", with your suggestion that they be returned to NAPLES. Under Army orders no such person may have travel Permit for NAPLES. We therefore must jail them here, without ground, the case being concluded, or treat them as Refugees. Once a trial court has passed sentence, no other authority may add to it except by review proceedings. In the future, give adequate local punishment, and do not forward convicted persons for "evacuation".

As to the W.D. property case, this man was caught in the billet with the stolen property. This man definitely a good case to make an example of as a warning to the public. A suspended sentence has the opposite effect. No matter how extenuating the circumstances, we must be "hard boiled" in such cases. You men in the spear-head areas must be the toughest in the lot in imposing sentences. When you get these clear cut cases give 'em HELL.

and attached his receipt to the record.

I am sorry to be critical of sentences passed, but all four sentences are highly unsatisfactory. First, in regard to the travel cases, the Army definitely wishes to discourage travel and giving suspended sentences will not accomplish that result. The other bad feature of this matter is that all three persons were forwarded here for "evacuation", with your suggestion that they be returned to NAPLES. Under Army orders no such person may have travel Permit for NAPLES. We therefore must jail them here, without ground, the case being concluded, or treat them as Refugees. Once a trial court has passed sentence, no other authority may add to it except by review proceedings. In the future, give adequate local punishment, and do not forward convicted persons for "evacuation".

As to the W.D. property case, this man was caught in the billet with the stolen property. This was definitely a good case to make an example of as a warning to the public. A suspended sentence has the opposite effect. No matter how extenuating the circumstances, we must be "hard boiled" in such cases. You men in the spear-head areas must be the toughest in the lot in imposing sentences. When you get these clear out cases give 'em HELL.

U.S.A.M./N.J.M.

Copy to S.I. [unclear] H.Q. [unclear] Army Main.

1st. [unclear]

2/1/40

Henry H. Mark
Captain,
Provincial Senior Legal Officer,
Campobasso Province.

692

*To: 2 to 2nd Lt of 1st Army [unclear]
1. [unclear] for information. [unclear]
[unclear] [unclear]*

HEADQUARTERS
ARMED MILITARY GOVERNMENT
REGION II

Adm Sec

10/12

27 Jan 51

Ref: 2201/5/1

Subject: Circuit of the GJO

To : GJO Legal Sub-Comm. ASG/ACC Naples.

1. Ref conversation 25.1.44 Col Pollock - Lt. Col. D.E.S. Cousins, in case this HQ letter 2201/9/51 of 18.1.44 should still not have reached you, the following are the dates fixed for your circuit in the provinces of Region II.

Matera	Feb 7th - 9th inclusive
Cosenza	" 10th - 12th "
Catanzaro	" 14th - 16th "
Reggio	" 17th - 19th "
Potenza	" 21st - 23rd "
Galerno	" 24th - 26th "

D.E.S. Cousins
D.E.S. COUSINS, Lt. Col.
RCMD

SEEN	
ADMIN DIRECTOR	
CHIEF STAFF O	<i>m</i>
STAFF O 1	
STAFF O 2	
STAFF O 3	
CHIEF CLERK	
DATA	

18

557

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.F.O. 398

ALG/1002/L

SUBJECT: Allied Military Courts in Occupied Territory

TO : C.O.A.G., Region I
C.O.A.G., Region II

FROM : H.Q., A.C.G.

25th January 1944

1. General Military Courts

(1) No General Military Court shall be appointed other than by the C.O.A.G., H.Q., A.C.G.

(2) Application for the appointment of a General Military Court shall be addressed to the C.O.A.G., H.Q., A.C.G.

(3) The application shall specify :-

- (a) the nature of the charges;
- (b) the date on which the prosecution will be ready to proceed with the case;
- (c) the names of the officers available to sit in the Court;
- (d) the names of the prosecuting officer, interpreter, and officers available to act for the defense in the event of the Accused not being represented by counsel;
- (e) the expected duration of the case.

2. Superior Military Courts

(1) Except where a judicial officer is specially authorized by the C.O.A.G., H.Q., A.C.G. to sit alone as a Superior Military Court, a Superior Military Court shall consist of at least two officers, one of whom shall be a judicial officer. Application for such special authorization may be made forthwith accompanied by a statement of the officer's experience and qualifications.

(2) Every Superior Court shall be properly convened by the C.O.A.G. of the Province in which the Court shall sit.

(3) In no case shall an officer while sitting as a Summary Court assume the powers of a Superior Court by an announcement to that effect or otherwise. If the case which he is hearing as a Summary Court proves to be one which should be dealt with by a Superior Court, the officer shall remit the case for trial by a Superior Court and a Superior Court will be duly convened. Such Summary Court Officer is not disqualified from sitting as a member of the Superior Court to try the case so remitted.

16

3. PROSECUTION

(1) Attention is called to the statement in Special Administrative Instructions Legal No. 1 that "It is as important that justice should seem to be done as that it should be done". Every care should be taken

- (a) to ensure not only that judges are impartial, but that they appear to be impartial alike to prosecution and defense. No officer who has taken part in the investigation of any case (other than merely determining whether the case is suitable for trial by a General, Superior or Summary Court) is eligible to hear that case;
- (b) to ensure that the evidence is fairly and accurately interpreted, particularly where evidence for the prosecution is given in a language other than Italian. The judge should address his remarks directly to the witness and the interpreter should interpret literally the judge's words. Interpreters should not be allowed to frame questions themselves nor to give merely the purport of questions and answers.
- (c) A time limit for speeches should not be imposed on defending advocates, but they may be directed to confine themselves to arguments based on facts adduced in evidence.

CHARLES E. SPOTFORD.

Colonel, G.S.C.

Deputy Chief Civil Affairs Officer.

HEADQUARTERS
10 FIFTH ARMY
A.P.O. 466 U. S. ARMY
LEGAL DIVISION

12 January, 1944.
28/CA/20

SUBJECT: Wrongful Possession of Property of the Allied Forces.

TO: SCAGOs of all Corps.

1. Members of the Allied Forces are selling or giving away to Italian civilians cigarettes and other commodities received from army sources (including PX and MAFPI), and these commodities are being dealt in by Italian civilians for profit. 15th Army Group has decided that the large scale traffic which is occurring in these commodities is obnoxious in view of the fact that the commodities in question were never intended for the Italian civilian population. Consequently any person who is found to be engaging in commercial traffic therein, will be prosecuted in Allied Military Courts for wrongful possession of property of the Allied Forces under par. (10) of Art. 11 Proclamation No. 2.

2. The possession itself of such commodities shall henceforth constitute sufficient prima facie proof of a charge of wrongful possession; this has the effect of casting the burden on the accused of proving that his possession is authorized, or not wrongful. Theoretically the accused may meet such burden of proof by proving that he received the cigarettes or chocolate or other commodities as a gift from an American soldier (or directly or indirectly from one who received them as a gift from an American soldier), who in turn purchased them from a PX or received them as a gift from non-governmental sources from the United States or elsewhere; or similarly through a British soldier who received them

from army sources for profit. 19th Army Group are being dealt in by Italian civilians for profit. In these has decided that the large scale traffic which is occurring in these commodities is obnoxious in view of the fact that the commodities in question were never intended for the Italian civilian population. Consequently any person who is found to be engaging in commercial traffic therein, will be prosecuted in Allied Military Courts for wrongful possession of property of the Allied Forces under par. (16) of Art. 11 Proclamation No. 2.

2. The possession itself of such commodities shall henceforth constitute sufficient prima facie proof of a charge of wrongful possession; this has the effect of casting the burden on the accused of proving that his possession is authorized, or not wrongful. Theoretically the accused may rebut such burden of proof by proving that he received the commodities or chose to acquire them as a gift from an American soldier (or directly or indirectly from one who received them as a gift from an American soldier), who in turn purchased them from the United States or a gift from non-governmental sources from the United States or elsewhere; or similarly through a British soldier who received them as a gift from non-governmental sources from home or elsewhere. A British soldier who purchases from a source who has no authority even to give away the article purchased, but an American soldier who purchases from a PX, while he may not legally violate no regulation or order in taking a gift of what is now prohibited.

3. In view of the fact therefore, that a charge of wrongful possession will in effect be tantamount to conviction, the charge should not be made in the ordinary case where a civilian has only

Rec'd 16/2/44

A small quantity of cigarettes or candy or other commodity, inasmuch as this might possibly have come directly or indirectly from a soldier who had authority to make such a gift. This of course refers only to commodities which are sold by the PX or might come from non-governmental sources, for a soldier is under no conditions authority to give away any commodity which constitutes a part of his ration, such as a can of "Q" or a box of "K" rations.

4. After the foregoing directive has been put into effect, kindly report to this Headquarters the results obtained, together with recommendations concerning its continuance.

By order of Colonel HUME:

W. B. Young Capt.
W. B. YOUNG
Capt., Scouts Guards,
G-3

DISTRIBUTION:

10 to II Corps
10 to JEF
10 to X Corps
3 C.I.C., 15th Army Group
5 C.I.C., Region IV HQ.
15 JEF
15 JEF

83/15

File 15

100-104444-1788

100-104444-1788

100-104444-1788

100-104444-1788

100-104444-1788

100-104444-1788

100-104444-1788

1. Cited herein in part is letter, A.C.C., dated 22 December 1943:

"1. This Headquarters is concerned at the continued increase of wire cutting and interference with signals communications is likely and on the whole, it is essential that the utmost vigilance be exercised by the Civil Police in this connection. All offences must be carefully investigated and prosecuted vigorously. The prosecution must insist on calling any evidence which it may assist the court in coming to a conclusion, particularly where sabotage is suspected. The prosecution must not be deterred by the serious penalties necessarily involved in a conviction for that crime. In cases where it is not proved that wire cutting amounted to sabotage, prosecutors will be instructed to press for salutary penalties. In view of the serious military consequences of damage to signal installations."

The offences...

Malanda.

It is essential that the utmost vigilance be exercised by the Civil Police in this connection. All offenses must be carefully investigated and prosecuted vigorously. The prosecution must insure that in coming to a conclusion, particularly where sabotage is suspected, the prosecution must not be deterred by the serious penalties necessarily involved in a conviction for that crime. In cases where it is not proved that wire cutting amounted to sabotage, prosecutors will be instructed to press for salutary penalties, in view of the serious military consequences of damage to signal installations."

2. The offenses abovementioned are clearly within categories defined in paras. 3a and b of letter from Legal Council, dated 6 December 1943, subject "Office of Director of Special Prosecutions". The procedure therein outlined (paras. 4 to 7 inclusive) will be complied with.

3. Civil Police agencies subject to your jurisdiction will again be impressed with the importance of exercising maximum vigilance in the security of signal communications and of investigating offenses with complete thoroughness.

By Order of Commanding Officer:

Colonel J. H. ...
Colonel, ...

Continuation of message.

Copy to:

A.S.H., S.O.S. (1)

15 Army Group A.S.D.

Public Safety Sub-commission.

Legal Sub-commission.

Interior Sub-commission.

Wils (2)

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4083/L ✓

9 December 1943

49

SUBJECT: Trial of Carabinieri.

TO : LT. Carter.

1. Four Carabinieri were convicted by a general military court in Palermo yesterday of an unsuccessful attempt to steal two 100 pound bags of sugar from an AMG warehouse. There was no evidence before the court that this was other than an isolated offense and the Carabinieri were therefore sentenced to 4, 3, 3, and 3 years imprisonment respectively.

2. During the hearing it emerged however that a determined effort had been made by senior officers of the Carabinieri, including a Lt. Col. to back up the case. This may have been due to a desire to avoid giving publicity to the attempted theft. It may have been due to other reasons. Now that the Carabinieri have been sentenced, they may be prepared to state what they intended to do with the sugar which they obviously intended to remove in a carabinieri truck and possibly were taking it back to the Carabinieri HQ.

3. The Papers are with the A.M.G., Palermo.

Copy to:

Public Safety.

GEORGE POLLOCK

CHIEF

Chief Judicial Officer.

Copy for 4083

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.S.O. 512
LEGAL SUB-COMMISSION

13

AMS/4105

Subject:- Order of Director of Special Prosecutions.

To :- R.C.L.Os (thru RCMCs) Regions I and II. 6th December 1943.

1. In order to achieve uniformity in prosecution and, as far as possible, uniformity in the imposition of punishments for all crimes deemed worthy to affect special interests of the Allied Military Government, there has been established within the Legal Sub-Commission, this Headquarters, the Office of the Director of Special Prosecutions, Legal Sub-Commission.

2. The function of the office of the Director of Special Prosecutions is to supervise and, whenever necessary, to assist in or conduct all prosecutions, within the occupied territory, of crimes within the category ascribed in paragraph 1.

3. Crimes within the category described in paragraph 1 are :-

- (a) All criminal acts of any kind or nature whatever, that are committed with the purpose or intent of aiding or assisting the conduct of the United Nations or of interfering with the operations of the Allied Forces.
- (b) All criminal acts which tend to bring about a substantial interference with the operations of the Allied Forces within the occupied territory, irrespective of the specific interest with which they are committed.
- (c) All acts of organized or mass violence or terrorism or of organized or mass resistance or opposition to the Allied Military Government or other lawfully constituted government or its representatives or agents.
- (d) Violation of Article V of Proclamation No. 7 of July 1943.
- (e) All violations of applicable laws, decrees, proclamations, orders and regulations (hereinafter referred to as "black market laws") which constitute :-

In paragraph 1.

3. Other within the category described in paragraph 1 are :-

- (a) All criminal acts of any kind or nature whatever, that are committed with the purpose or intent of aiding or assisting the Government of the United Nations or of interfering with the operations of the Allied Forces.
 - (b) All criminal acts which tend to bring about a substantial interference with the operations of the Allied Forces within the occupied territory, irrespective of the specific interest with which they are committed.
 - (c) All acts of organized or mass violence or terrorism or of organized or mass resistance or opposition to the Allied Military Government or other lawfully constituted government or its representatives or agents.
 - (d) Violation of Article 7 of Proclamation No. 7 of July 1943.
 - (e) All violations of applicable laws, decrees, Proclamations, orders and regulations (hereafter referred to as "black market laws") which constitute :-
 - (i) a diversion of essential commodities from legal channels to black market;
 - (ii) an unlawful purchase or sale of such commodities at prices in excess of legally prescribed maximums.
 - (f) All other substantial violations which in the judgment of the C.I.O., Legal Officer, or C.I.F.O. having jurisdiction there of are of such a nature or extent as to fall within the category described in paragraph 1.
4. Wherever cases of the kinds mentioned in paragraph 3, sub-paragraphs (a), (b), (c), (d) and (f), or other black market cases arise, it shall be the duty of the C.I.O., C.I.F.O. or Legal Officer having jurisdiction :-
- (a) to report the case immediately through Regional Headquarters to the Director of Special Prosecutions;
 - (b) whenever practicable in view of existing communication and transportation difficulties, to withhold prosecution of the offenders until advice is received from the Director of Special Prosecutions through Regional Headquarters to proceed with the prosecution.

- (c) To give all such cases special preferred and expeditious treatment, including to the maximum extent possible special investigative attention to make certain that all available evidence of the offense has been secured and all available individuals involved in the offense have been discovered and apprehended.
5. It shall be the duty of each Regional Headquarters to forward as soon as practicable all reports of the type described in paragraph 4 hereof to the Director of Special Prosecutions and, in any event, to render such assistance to the investigation and prosecution of offenses as reported as the Regional Chief Legal Officer deems necessary.
- Where, however, in view of the nature of the case as reported and the state of transportation and communication facilities, it is not deemed practicable to furnish prosecution until advice is received from the Director of Special Prosecutions, it shall be the duty of Regional Headquarters to take all necessary steps to ensure prosecution of the case in accordance with the policy defined in this directive.
6. All prosecutions for crimes that affect the interests of A.M.G. as defined in part. 3 hereof shall be brought before A.M. Courts.
7. The procedure described in part. 4 hereof shall be followed in all cases of the nature whatsoever, if it seems likely that the prosecution is to be brought before a General A.M. Court. The duties of Regional Headquarters with respect to such cases shall be as set forth in part. 5 hereof.
8. Major black market cases as distinguished from other black market cases are subject to the procedure set forth in part. 4 hereof. No hard and fast rule can be laid down defining a major black market case. Illustrative of the type of case falling into this category are the following types of cases. These are examples only for they by no means exhaust the category:-
- (a) Violations which are the result of the operation of any organized group, ring or conspiracy;
 - (b) Violations which involve a breach of trust such as violations by law enforcement officials or other public officials charged with the suppression of black market practices or with the administration of supplies or rationing;
 - (c) Violations whose extent is such as to indicate a black market operation on a major scale.
9. Summary of the current drive against black market cases is of special interest to the A.M.G. Hence the greatest emphasis should be laid upon the prosecution and investigation of major cases. Other black market cases should also be the subject of an intensive law enforcement drive by C.A.O.s, Legal Officers and C.P.s.

8. Major black market cases are distinguished from other black market cases in subject to the procedure set forth in para. 4 hereof. No hard and fast rule can be laid down defining a major black market case. Illustrative of the type of cases falling into this category are the following types of cases. These are examples only for they by no means exhaust the category :-

- (a) Violations which are the result of the operation of any organized group, ring or conspiracy;
- (b) Violations which involve a breach of trust such as violations by law enforcement officers or other public officials charged with the suppression of black market practices or with the administration of supplies or rationing;
- (c) Violations whose extent is such as to indicate a black market operation on a major scale.

9. Success of the current drive against black market cases in of especial interest to the C.A.C. Hence the greatest emphasis should be laid upon the prosecution and investigation of major cases. Other black market cases should also be the subject of an intensive law enforcement drive by C.A.C.s, Legal Officers and C.A.P.O.s. The greatest available concentration of time, effort and enforcement personnel should be made upon this type of violation. The steps to be taken in pursuance of this policy will depend on a large extent upon the resourcefulness of the C.A.C., Legal Officer or C.A.P.O. having jurisdiction and his knowledge of local conditions. The following measures, however, should be put into effect wherever they are applicable:-

- (a) Imposition of uniform punishments for this type of violation within the limits set forth in the directive of the Chief Judicial Officer on the subject;
- (b) A special effort to discover and apprehend major violators, higgler, transporters of grain on a large scale and individuals connected with organized black market activity;
- (c) In connection with the above a policy of leniency to minor offenders who aid the enforcement authorities by giving information concerning their sources of supply, their confederates, or other matters;
- (d) Dissemination by various means available of publicity as to cases actually tried, the names of the offenders and the punishments imposed.

- (c) Establishment of road blocks and the use of such other special investigative devices as may be warranted by conditions obtaining in any particular locality.

10. Communications from Regional Headquarters will be transmitted to the Legal Sub-Commission for the office of the Director of Special Prosecutions.

Richard H. Wilmer

RICHARD H. WILMER

Lt. Colonel,
Acting Deputy Chief Legal Officer.

DISTRIBUTION :-

RCLO Region I	25
RCLO Region II	25
NCS. AMHQ.	1
AMG. 15 Army Gp.	10
Lieut. Colonel. (Public Safety)	10
Sub-Commissions	15
File 4109/L.	1
Spares	20

(For Information)

Copy 4002

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. ~~MC~~
LEGAL SUB-COMMISSION

File

(81)

AMG/4083/1

Subject. General Military Court

To . S.O.B.O. (thru HCAO) Region II

3rd Dec. 43

1. General McSherry has decided not to sign the order ante-dated to 6th November 1943 constituting the General Military Court for the trial of TAVERNA, Alberto.

2. Instead he has signed the attached order dated 6 Dec 43 and has issued the following instruction:-

On resuming its sitting the President of the Court will announce that owing to a defect in the Order convening the Court, the Court will be reconstituted, and as from that date will sit as a General Military Court, the membership of the Court being as before; the President will then ask the accused whether he wishes the Court to re-hear the evidence. If he does, the evidence will be re-heard. If he does not wish the Court to re-hear the evidence, the Court will then proceed to sentence. The record of evidence already taken will be admitted as the record of the General Military Court.

GEORGE POLLOCK

Colonel.

Chief Judicial Officer.

Incl. Order

GP/eap

11

Copy in 4002/1

ALLIED MILITARY GOVERNMENT

(FO)

I, Frank J. McSherry, Brigadier-General, U.S.A. by virtue of the powers conferred upon me by the General Officer Commanding the Allied Forces in Italy and Military Governor of the Occupied Territories in Italy, hereby, and on behalf of the Military Governor, appoint a General Military Court to be constituted of Major A.W.L. Franklin, R.A.S.C. as President, and Captains B.E. Dreyfus R.R.R. and Donald Little A.U.S. to be members for the trial of TAVERNA, Alberto charged with the unlawful killing of Samuel Melio, a member of the Allied Forces.

FRANK J. MCSHERRY

Brigadier-General, U.S.A.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.F.D. 512
LEGAL SUB-COMMISSION



AMG/4002/1

Subject. Allied Military Courts

To. SCLOs (thru SCACs) Regions I and II

1 Dec 43

1. It is deemed essential to have the work of Allied Military Courts reduced to the minimum and to have the Italian Courts which now appear to be functioning satisfactorily take over as much trial work as possible. To this end all Allied Military Courts will complete their pending cases as quickly as possible and will not undertake new cases except

- (a) Cases concerning the possession of or damage to Allied Military Property.
- (b) Cases directly involving the interests or personnel of the Allied Forces.
- (c) Exceptional cases which for one reason or another cannot be tried in an Italian Court.

2. The trial of cases referred to the Italian Courts in which the testimony of Allied personnel is necessary should be expedited by those courts. Early arrangements must be made ~~to handle~~ ^{with} the Italian judicial and court officials to this end.

RICHARD W. WILMER
Lt. Col.,
for, Chief Legal Officer.

Copies to.

AMG/4001/1
AMG/4001/2/1
AMG/4003/1

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

AMG/4083/L

Subject: MELI, Leodora Vittorio,
via Stabile 171, Palermo.

To: R.O.L.O. (through RAO) Region II.

26th Novr. 1943

1. This man reports that he was brought before a Military Court in Reggio Province on 4th November and charged with (1) driving a car without a permit, and (2) failing to declare the car and that the case was adjourned to 5th December 1943.

2. Lt. Col. Denmore, Director of Transportation, Communications and Utilities, A.M.G., E.Q., has sworn the attached document in affidavit form and has pointed out that Meli's services are required in Palermo for A.M.G. duties.

3. If the circumstances are correctly set out in the attached document you will no doubt come to the conclusion that the case can now be dismissed.

4. Meanwhile Col. Denmore has been informed that Meli need not return to Reggio for the adjourned hearing on Dec. 5th unless he hears from us to the contrary.

5. If the circumstances set out in the attached document are inaccurate or incomplete I suggest that you further adjourn the hearing for a few days to enable us to notify Meli that he must attend a further hearing.

6. Please report.

GP

GEORGE POLLACK
Colonel,
Chief Judicial Officer.

duties.

3. If the circumstances are correctly set out in the attached document you will no doubt come to the conclusion that the case can now be dismissed.
4. Meanwhile Col. Densmore has been informed that Mali need not return to Reggio for the adjourned hearing on Dec. 5th unless he hears from us to the contrary.
5. If the circumstances set out in the attached document are inaccurate or incomplete I suggest that you further adjourn the hearing for a few days to enable us to notify Mali that he must attend a further hearing.

6. Please report.

GP

GEORGE POLLOCK
Colonel,
Chief Judicial Officer.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
Communications Section
APO 512

CS/40-File No.

24 November, 1943.

SUBJECT: Meli, Isidoro Vittorio, Via Stabile #171,
Palermo, Sicily.

TO: Legal Sub-Commission, Hq. AMG.

Folios 7-8

1. Reference letter, this Section C/S 40-12 November, 1943, above subject.

2. In compliance with agreement reached at conference, your office, attached is affidavit.

3. Since Meli's services are required here, it is requested that the case be dismissed or transferred to Palermo for trial. In view of the facts, it would appear to be unnecessary for Meli to go to the mainland to stand trial in a case which, if justice is done, will be dismissed.

L. D. Denismore

L. D. DENSMORE
Lt Col, SC, Acting
Chief Communications Section

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
COMMUNICATIONS SECTION
APO 512

24 November, 1943

Subject: Bell, Indro Vittorio, Via Stabile 171, Palermo, Italy.

AFFIDAVIT

1. On 4 October, 1943, arrangements were made by Lt. Col. L.D. Denmore (A), the Director of Transportation, Communications and Utilities, HQ. AMS (Italy) for Bell, Indro Vittorio to travel under General Pass 27750, from Sicily to Calabria Region and return, in order to put certain schooners under control and obtain information as to other boats for AMS.

2. Upon arriving in Calabria, it was found that Bell would, in order to complete his mission, be required to travel to the Naples area. A British AMB official (name unknown) gave necessary authority for Bell to travel to Torre Annunziata and other places in the Naples area.

3. At Torre Annunziata, Bell obtained an automobile from his father-in-law. He was unable to obtain operating permit at Torre Annunziata for the car, as same were not then available.

4. Bell used his general pass 27750 in lieu of permit, at Salice, Reggio Province, an AMB CAPT stopped him, told him a permit to drive the car was necessary. The CAPT gave Bell a note to be delivered to the Prefettura, Reggio Province. Bell reported to CAPT at the Prefettura, where charges were preferred against him for (1) driving without a permit, (2) failure to declare the car, (3) using General Pass 27750 in lieu of operating permit and (4) unauthorized travel to the Naples area.

5. At a hearing held on above charges, the Allied Military Court continued the case until 6 December, 1943 for lack of facts.

6. Later, on 7 November, 1943, CAPT gave Bell permit to drive car to Palermo, after two extra wheels and tires had

(5)

Affidavit, Vol. 24 Nov. 1943 Continued

Case regulated by CTR.

7. Voli's services are required here in Palermo with respect to the reorganization of shipping and the Italian Merchant Marine.

8. Voli states that the court indicated that if above statements are true, the case should be dismissed. Voli had no evidence except his general statement; therefore the case was continued.



L. D. DENHAM
Lt. Col, SC, Acting
Chief, Communications Section

Lt. Col. L. D. Denham appeared before me on the 25
day of November, 1943, signed the above statement and under
oath, stated that the facts therein shown are true as he verily
believes.

Richard H. Wilmer
Lt Col CAC
Chief Counsel AMG

HEADQUARTERS
ARMY MILITARY GOVERNMENT
...
LEGAL SUB-COMMISSION

(4) file

AG/4083/1

Subject. Summary Court.- Waro
Case of ATIASHI Minoeppe

To. ... 25th Novr. 43

1. ... record and petition in above case, it would appear that the accused is now raising an alleged authority from Captain Philipps, at present U.A.O. Licata, as a defence to the charge.

2. This defence was not raised at the trial and Captain Philipps was not called to give evidence.

3. It would seem unlikely that Captain Philipps did in fact authorise the accused to retain the property in question, but it is felt that an investigation should be made to see whether he has any recollection of the incident and can throw any light upon the matter.

Lt. Col.
for, Chief Legal Officer.

HEADQUARTERS
ARMED MILITARY GOVERNMENT
A.M.G. 512
LEGAL SUB-COMMISSION

AMG/4083/L

Subject. Superior Court of Catania
Case of Dr. Pontino Vincenzo
Region 1 case no. CATANIA/865

To. A.M.G. (thru S.C.A.C.)
M.G., Region 1

25th November 1943

I am handing over the papers in this case to the Public Safety Sub-Commission for them to ascertain whether or not Dr. Pontino is now prepared to state more fully the source of the petrol. He should not be committed to prison in default of payment of the fine until you hear further from this sub-commission.

G. POLLOCK
Lt. Col.
Chief Judicial Officer.

HEADQUARTERS ALLIED MILITARY GOVERNMENT
and
HEADQUARTERS ALLIED CONTROL COMMISSION
APO 512

CS/40

12 November 1943

Subject: MELI, ISIDORO VITTORIO, Via Stabile, 171, Palermo

To : Legal Sub-Commission, Allied Military Government
and Allied Control Commission

1. MELI, ISIDORO VITTORIO, is the owner of 11 schooners formerly used in shipping trade out of Palermo. He also had under his management a number of other boats. These boats were located at a number of different points in Sicily and Southern Italy.

2. On 4 October, 1943, arrangements were made with him whereby he was to locate the boats with the view of putting them into operation for AMG.

3. General Pass 27750 was issued to him, authorizing him to travel from Sicily to Calabria Region and return, in order to put the boats under control and obtain information as to the other boats.

4. He performed his mission and was given permission to go to TORRE ANNUNZIATA, where he obtained a car from his brother-in-law. He attempted to obtain a permit to drive the car to Sicily, but was told that at that time a permit was not required.

5. Upon returning to Sicily (3 November 1943) he drove the car to GALLICO, REGGIO PROVINCE, where the CAPO stopped him, told him a permit to drive the car was necessary, gave him a note to be delivered to the Prefettura. He reported to CAPO at the Prefettura, where charges were preferred against him on two counts (1) Driving without a permit; (2) Failure to declare the car. A hearing was held the next day, as a result of which the case was continued until 5 December 1943. The CAPO requisitioned two extra wheels and two extra tires from the car on 4 November 1943. On 7 November 1943 the CAO, REGGIO, gave MELI a permit to drive the car to Palermo.

6. It would appear that this case should have been dismissed, rather than continued until 5 December. If the case is to stand against MELI, he will be required to return to REGGIO on 5 December, whereas his services are required here in connection with shipping operations.

(Legal Sub-Comm, 12 Nov 43)

7. In view of the fact that MELI was on a mission for AMG, even if he did drive a car without permit, and fail to report same (the car can be reported here), it is recommended that the case be dismissed.

8. This may not be the proper procedure, but I feel that this man should not be required to return to the mainland to stand trial. The above, in my opinion, are the basic facts. Will appreciate your views in the matter.

L. D. Denismore

L. D. DENSMORE,
Lt Col, Sig C,
ACTING CHIEF OF SECTION

1919