

1920

Declassified E.O. 12356 Section 3.3/HND No. 785016

ACC

10000/142/568
(VOL. 1)

1923

Declassified E.O. 12356 Section 3.3/RND No. 785016

000/142/568
OL. 1)

REVIEW OF A.M. COURT CASES, CORRESPONDENCE
OCT. 1943 - FEB. 1944

1 9 2 2

HEADQUARTERS
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 194

GEP/jpi

29 February 1944

133

ACC/4083/1/2

SUBJECT : MENGILO Angelo, Legal File No. 63.
Application for review of sentence.

TO : Regional Commander, Region III. (Att.: RLO)

1. The above file was forwarded with your memo dated 19 Feb. 44, and is returned herewith.

2. Please have the Provincial Commissioner, Benevento Province, comply with your instructions to him dated 16 Feb. 1944.

3. In addition please have the Provincial Commissioner obtain a statement from Major W. G. Elder, the Superior Court, as to whether the accused was given adequate opportunity to produce witnesses. *The papers should then be returned to this HQ*

4. If it is not possible to correct the record with respect to paragraphs 2 and 3 a new trial ~~should be held~~ *may have to be ordered*

GEORGE POLLOCK

COLONEL
Chief Judicial Officer.

1923

HEAR READING
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 344

AGY/jpl

132

AGS/4033/1/L

29 February 1948

SUBJECT : Case of OLIVA, Francesco.

TO : RIA (Cru AC) Region 1.

1. The sentence and conviction are quashed.
2. The accused is to be sent to a Prisoner of War Camp and the facts should be brought to the knowledge of the Camp Military Authorities.

GEORGE POLACK

Colonel
Chief Judicial Officer.

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JOINT HEAD-QUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 318

GP/ JPL
27 February 44

131

ACC/4037/1/2

Subject : Review of Cases.
To : SAC's (thru RC's) Regions 1,2,3,4,6.
SAC's AAG 5th and 6th Armies.

Cases should not be sent to this H. Q. for review until a petition
has been filed or 30 days have elapsed after the imposition of sentence.

GERALD E. URJOFF
Colonel
Chief Legal Officer.

1925

HEADQUARTERS
ARMED CONTROL COMMISSION
Legal Sub Commission
APO 394

130

GR/jpi
29 February 1954

ACC/4083/1/L

SUBJECT : Case in Re: Unlawful assembly at SCKWHI

TO : SLD, AMG, 8th Army.

1. It is impossible to review this case as no notes of evidence or other records of the proceedings has been furnished.
2. Will you please ask the trial judge for an explanation why he no longer has any detailed notes of the evidence given and point out to him that unless sufficient record of the proceedings can be supplied to enable the case to be reviewed it will be necessary to order a new trial.

GEORGE POWELL

Colonel
Chief Judicial Officer.

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

HSW/jpl

129

AGC/4083/A/L

SUBJECT : Case of USMC Giuseppe

27 February 1944

TO : HQ (thru RO) Region I

- 1. The conviction and sentence have been affirmed.
- 2. The trial judge did not verify the record and should do so. He has merely initialed the last page of the record.

RICHARD H. SILVER

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

1927

785016

HEAD QUARTERS
ARMED CONTROL COMMISSION
Legal Sub-Commission
APO 374

RRS/jpl

128

ACC/4083/1/L

26 February 1947

SUBJECT : Case of ACCARDI Domenico

TO : SAC (thru PC) Region I

1. The conviction and Sentence are affirmed.
2. Attention is called to the failure of the trial judge to sign the Record. However, this is a small case and other papers attached identify the case.
3. The record should be properly verified before it is filed.

RICHARD H. WILMER

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

CC

HEADQUARTERS
ARMED CONTROL COMMISSION
REGION II

127

1720

16 Feb 44

Ref: 2201/35/G

Subject: Review of Cases

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

1. Records with Appeals annexed are enclosed for review of convictions and sentences as follows:-

Cating, Alessandro	-	28 Dec 43	✓
Capuano, Fraisor	-	28 Jan 44	✓
D'Urso, Francesco	-	4 Jan 44	✓
Amato, Gennaro	-	4 Jan 44	✓
Matola, Salvatore	-	22 Jan 44	✓
Fleitano, Giovanni	-	13 Jan 44	✓
Capuano, Fraisor	-	28 Jan 44	

2. The following further appeals are also enclosed:-
Montone, Ugo sentenced 18 Dec - Record sent on 26 Jan (heading 9)
Colangelo, Carmine and 2 others - - do - (heading 7)

Blackburn Capt

M

D.S.S. COMBES, Lt. Col.
HCLC
Region II

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1929

Declassified E.O. 12356 Section 3.3/NND No. 785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

126

ACC/4083/1/L

OF/jpl
28 February 1944

Subject : Trial of PRINZI Ernesto.

To : SIO, AMG, 5th Army.

1. It is proposed to hand these papers to G S I (b) for investigation, if desired, into the allegations made against the PSC in this case.

2. Will you please inform me who wrote the document headed "Report on the actions of the 35 PSC 56 Div. and the CO thereof" and how the document came to be compiled.

3. The papers should be returned to us with the necessary information. The decision on review of the PRINZI case is attached.

GEORGE POLLOCK

Colonel
Chief Judicial Officer.

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1930

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

FILE
125

27th February, 1944.

REFERENCE : ACC/4035/1/L.
SUBJECT : Capt. DOMENICI, Arturo.
TO : Director of Public Safety.

1. I send herewith :-

- ... (a) Rough Summary of Domenico Case.
- ... (b) File.

2. The Summary briefly indicates the case against Domenico and is intended for your information and return to this office please.

3. The file has been considered by this Sub-Commission and it has been decided to ask the C.O.C., P.R.C.C., to take disciplinary action against Domenico rather than to try him in an Allied Military Court. Will you therefore please hand this file to the C.O.C., P.R.C.C. and ask him to institute disciplinary proceedings against Domenico and to inform the A.C.C. of the punishment imposed.

GERALD W. UPJOHN.
Colonel.
Chief Legal Officer. 67

GRU/wrw.

124-A

13

Following frequent searches that Allied property was in the possession of Capt. Dominici OGR, CAPO, Capt. some limited opportunity to search his flat.

In December, removal of two tyres and a wheel from a military car under guard of the OGR, and suggestion they had been taken to D's flat, led to CAPO to search flats of both the Major of OGR, and of Capt. D.

The Major did not deny, and nothing was found in his flat. While it was searched however, from it Capt. D tried to telephone his own flat, but was prevented.

B. In spite of D's denials of possessing any property open to objection, search of his flat revealed:

- 1. Large quantity of Italian cloth.
- 2. Two rolls of OGR cloth.
- 3. Nineteen pairs of boots.
- 4. 8 pistols and ammunition (German and Italian)
- 5. Five shotguns (Italians)
- 6. 100 AMMUNITION CARTRIDGES (issue pattern)

Capt D prevaricated in general, and lied in particular, since much of the above was found subsequent to his assurance there was nothing more of the kind in his flat.

His explanation as to the cloth, was that it had been bought by him at various towns and periods covering two years.

As to the watches, he stated it was a gift from a Lieut Colonel USA Forces.

As to the arms, he stated these were part of the arms surrendered in compliance with the UN's Proclamation. He denied ownership of one of the above mentioned items of the material, stating it belonged to another officer of the OGR.

C. Capt. D was placed under house arrest on 23-12-45 the day of the search, and without reference to any AFM investigation, the CAPO agreed to a request by the Colonel of the OGR for a full inquiry of him.

After frequent delays, the Col. presented the OGR with a report, and with a statement by Capt. D. It had been his policy to inform Capt. D that any such statement must be voluntary and need not be made. The principal contents of the statement and report are:

1. While referring to witnesses who particularly said the cloth was stolen, but these are not specifically identifiable with the cloth in his possession, some other in a way, and quite at least that the quantity found. In the case of one will, the receipt is signed by a person, formerly employed in the same place and who is known to have been looted.

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Part of the cloth revealed property known to have been looted, from a train, while under guard of Capt. D's subordinates.

2. Officers of the AFM are stated frequently to have taken shot guns surrendered to the OGR for use on shooting parties. Officers mentioned are Colonel Grant, Major OC 21 Subans Reggion, Major Antonio Jones and Maj. L. ... In one occasion a Baron Franco is stated to have taken 10 shot guns on their behalf, and to have retained 9 - this is corroborated by the Baron. The tenth is stated to have been retained up to date by Colonel Grant.

Page 6 cont'd:

But the Baron denies those included those found in D's flat.

D's explanation of his possession of the arms is in brief, that he kept them in his flat for greater security, since MI officers might also have searched those of his subordinates in his absence.

But labels showing ownership of the 5 shot guns had been rubbed off, and when in October, the owners requested their return as sanctioned by MI policy, Capt D informed them this was impossible, since they were in British possession. This he reported to them as late as January, but the register at the SOHR barracks shows him to have crossed off the entries as to those guns, as having been returned to their owners.

Rough report only

*BEK
RLO Ryzum 2.*

1933

785016

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 594.

124

27th February, 1944.

REFERENCE : ACC/ACF/1/1.
SUBJECT : Capt. DOMESTIC Arturo.
TO : R.L.C. (then Regional Commissioner) Region II.

1. The file (brought by Col. Pollock) has been considered and this Headquarters has decided that the matter can best appropriately be handled by means of disciplinary action against Domesti as a member of the R.L.C.C.

2. The file is accordingly being handed to the G.C.C., H.R.C.C.

GERALD R. JAMES.
Colonel,
Chief Legal Officer.

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NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

122

ACW/301

27 February 1944

ACW/4083/1/L

SUBJECT : Cases of (1) LaCORTE Carmelo
(2) LaCORTE Giuseppe

TO : HQ (thru RC) Region I.

1. The conviction in the case of LaCORTE CARMELLO is affirmed but two years of the proposed sentence has been suspended in view of mental condition.

2. I do not see how the uncle (LaCORTE Giuseppe) could have been convicted of possession when the Court found the ammunition was hidden without his knowledge. His conviction must be quashed though he has already served his sentence.

George Pollock
GEORGE POLLOCK

83

Colonel
Chief Judicial Officer.

1935

NEAR HEADQUARTERS
APPLIED CONTROL COMMISSION
Legal Sub-Commission
APO 374

119

GP/ipl

ACC/4083/1/L

26 February 1944

SUBJECT : CASES OF: (1) Esposito and others.
(2) PICCULO and others.
(3) SICHIANO
(4) GENOVESE
(5) ADINOLFE.

TO : RLO (thru RG) Region III.

1. The records in the above cases are returned to you direct..
Cases 1 to 4 were tried by Major HERCHERSON and though the record is silent on the point it is assumed that all were tried in a Summary Court.

2. In case 1, the judge convicted two of the accused of stealing two Army lorries, of trafficking in grain and of violating curfew. In case 2 he convicted one of the accused of bribery, travelling without a permit and of being in unlawful possession of a firearm which apparently he attempted to use to resist arrest. He imposed sentences on each of the above of one year in jail. I am sure you will agree that such cases ought never to have been tried in Summary Courts and that sentences of one year are grossly inadequate. In a recent case, not very dissimilar from case 2, a General Military Court imposed sentences of 10 and 15 years imprisonment.

3. In cases 3 and 4 the sentences are also too light, but as sentence cannot be increased on review the decisions in all four cases are affirmed.

4. Will you please take steps to ensure that future cases at NOLA are dealt with adequately.

5. Case 4 is a bad case of the use of agents provocateurs and the conviction is quashed.

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GERALD R. UPJOHN

Colonel
Chief Legal Officer.

1936

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 374

118

RHW/jpl

ACG/4083/1/L

26 February 1944

SUBJECT : Case of RIZZO Girolamo di Agostino
TO : HLO (thru RC) Region I.

1. The record in this case is being returned. There is no verification of the record by the trial judge. This record must be authenticated in some manner by some one else with knowledge of the case, if the trial judge is no longer available.

2. There are too many cases coming in for review from Region I in which the Legal Officer transmitting them has apparently not checked the records sufficiently before sending them on.

3. This case is a serious one calling for imprisonment for 3 years and cannot be treated too casually on review.

RICHARD H. WILMER
Lt. Col. G.A.C.
Deputy Chief Legal Officer.

1937

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

117

RFW/jpl
26 February 1944

ACC/4083/1/L

SUBJECT : Cases of (1) FASO Salvatore,
(2) CHIAPPONE Luigi.

TO : RAO (thru RC) Region I.

1. The record in these cases have not been signed by the trial judge nor is there any other document signed by the trial judge which in any way authenticates the record.
2. There is nothing in the record to show whether the cases were tried before a Superior or Summary Court. It does not matter in this particular case as the sentence ~~is~~ within the jurisdictional limit of the latter.
3. It would be helpful if before records are forwarded to this HQ., the legal officer in the Region through whose hands records pass will check them for their authentication and other formalities.
4. I have affirmed the convictions and sentences in order to avoid the records going back and forth but I will expect ~~them~~ to be put in proper shape before being filed away.

RICHARD H. WIEMER
Lt. Col. C.A.C.
Deputy Chief Legal Officer.

06

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

116

GP/jpl

26 February 1944

ACC/4083/1/L

SUBJECT : Case of SIANO Ferdinando.

TO : Provisional Legal Officer, Salerno.

The recommendation that there should be no trial by
an Allied Military Court is approved.

GEORGE POLLOCK

COLONEL
Chief Judicial Officer.

1939

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

115

RHW/jpl

25 February 1944

AOC/4083/1/L

SUBJECT : Case of CORRADO Andrea.

TO : RLO (thru HC) Region I.

- 1. The conviction and sentence in this case are affirmed.
- 2. The record was not signed by any member of the Court. This should be done before it is filed away. Captain Mathews, President of the Court, did sign one paper in the file which gives some authenticity to the record itself. Records should always be signed.

RICHARD H. WILMER

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

SUBJECT: Record of Proceedings of Allied Military Courts.

Rear MG Eighth Army.

CA/13/634

11 Feb 44.

CLO, HQ, ACC (Salerno Detachment)
Legal Sub Com.

114

1. Forward herewith subject records.
2. Records from Campobasso arrived this HQ one week ago and the errors were such that undersigned proceeded to Campobasso with them to visit the various officers concerned.
3. Immediately upon arrival snow prevented further travel, but Lieut. Landeman was interviewed and instructed. His trials have been entirely too summary.
4. Capt. Marsh impresses undersigned as an extremely capable Legal Officer. He has been advised that the activities of Summary Courts in his Province are his responsibility and from now on will supervise and correct.
5. Measures have also been taken to provide a smoother and speedier flow of records to this office.
6. Improvement in the conduct of Summary Courts and the making of their records will be undertaken as follows:
 - (a) P.S.L.Os. will examine all records and admonish by letter or personal visit when necessary. Copy of letter, or note as to visit, to accompany record to this office and go forward with record.
 - (b) Where further correction is deemed necessary letter will go forward from this office to officer concerned with copy to PSIO and copy forward with record.
7. Notwithstanding mistakes it is thought that substantial justice is being administered in the great majority of cases and this office is gratified at the evidence that cases are being tried promptly.

Edwin J. Mercer

Edwin J. Mercer, Maj. Ord.
Senior Legal Officer, A.M.G. Eighth Army.

1941

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 374

43

AGC/4083/1/L

RHW/ipl

25 FEBRUARY 1944

Subject : Case of PASTORE Giovanni.

TO : RLD (thru RG) Region II.

1. The record in this case has been carefully and fully reviewed.
2. The conviction of the accused on the first charge, namely 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.

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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 so 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.

Note: This case reported to Ex Comm & P/S Sub Comm
by letter 25/2/44 - See Serial Staff file File 4083/L

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.

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.

1943

READMATTERS
ALLIED CONTROL COMMISSION
REGION II

15 Feb 1943
1676

REF: 2201/31/3

Subject: Review of Sentence

To : The Chief Legal Officer
Legal Sub-Commission 400, Salerno

PASARIS, GIOVANNI

1. In this case the above named was convicted by a General Court on a charge of strapping mail bags, and there is no doubt that this was part of an organized system of robbery.
2. The Record with appeal annexed is sent to you for revision, as the Chief Judicial Officer sat on the Court as President.

Paul Brown
 P. B. BROWN, Lt. Col.
 USA
 Region 2

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1 9 4 4

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

110

RHW/jpl
24 February 44

AGC/4083/1/L

SUBJECT : CASE of FERRARA Vincenzo

TO : HLD (thru HC) Region I.

1. The conviction and sentence in this case is quashed for the reason that the record shows that the accused is a Prisoner of War, and as such he is not subject to the jurisdiction of an Allied Military Court.

2. The prisoner should be transferred to the nearest appropriate Prisoner of War Camp and the military authorities advised of the case, so that they can take such disciplinary action as they see fit.

RICHARD H. WILKER

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

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1945

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

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AGC/4083/1/L

RHW/jpl

24 February 1944

SUBJECT : Case of VINCI Giovanni.

TO : RLD (thru RG) Region I.

1. The imprisonment in this case has been reduced to six months, balance suspended.

2. Ordinarily it is better practice not to prosecute for perjury in these cases. Certainly the sentence is excessive as to the period of imprisonment.

RICHARD H. WILMER

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

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1946

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

108

ACW/jpl

24 February 1944

SUBJECT : CASE of PENNISI Antonino

TO : D.A.L.C. (thru RC) Region I.

1. Reference your letter dated 5th February 1944.
RLK 013.04/HD.

2. The copy of the letter from SLO Catania, recommending commutation of penalty was not in fact enclosed *at least not received.*

3. It is understood that on 5th February 1944 the reviewing Officer suspended one year of the prison term, but as the decision was taken before receipt of the above mentioned letter, the papers together with the SLO's recommendation should be returned to this H.Q. for further consideration.

A.C. WRIGHT
Major
for the Deputy Chief Legal Officer.

1947

10 FEB 3 1944
Admin. Sec 518
107

ALLIED MILITARY GOVERNMENT
SICILY REGION HEADQUARTERS
APO 394

File: RLE 013.04/HD

5 February 1944

SUBJECT: Applications for Review.
PENNISI Antonino.

TO : C.J.C., A.C.C., HQ. APO 394.

1. Record of Proceedings and application for review in the above case are now before you for consideration. The accused was convicted at Catania on 4/1/44 of wrongful possession of petrol and sentenced to two years imprisonment.

2. Herewith copy of letter from S.L.O. Catania strongly recommending that the sentence be varied to a fine on compassionate grounds, and in view of the circumstances stated his recommendation is supported by this Headquarters.

3. Pending decision on appeal, S.L.O. Catania has been authorized to grant provisional liberty on terms that accused reports regularly to the Carabinieri.

For Lt. Col. POLETTI:

H. M. Dickie
H. M. DICKIE,
Squadron Leader,
D. R. L. C.

jd

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5 Feb 44

1948

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission

106

RSW/jpl

24 February 1944

ACC/4083/1/L

SUBJECT : CASE of (1) GANOFALO Giacinto
(2) CAMPAGNA Carmelo

TO : HQ (thru RO) Region I.

1. While the conviction and sentence of GANOFALO is affirmed, the conviction and sentence of CAMPAGNA is not affirmed.
2. According to the record in the course of the trial CAMPAGNA who was the first witness for the prosecution gave evidence, which in the light of further evidence was not believed, and thereupon the trial judge immediately had CAMPAGNA arrested, charged him, tried him, convicted him and sentenced him all at the time and as part of the principal trial on 18 January 1944. This procedure was entirely unwarranted and most improper. If the Court was convinced that there was a case against CAMPAGNA, it was quite proper to have him arrested, but any person accused must have a reasonable time to study the charges brought against him to secure counsel, to defend himself and call witnesses in a new and separate trial. The fact that the CAMPAGNA was represented by counsel on his appeal is totally insufficient to remedy the grave error committed by the Court.
3. The conviction and sentence of CAMPAGNA is therefore reversed and the prisoner must be released.

RICHARD H. WILKER
Lt. Col. C.A.C.
DEPUTY Chief Legal Officer.

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1949

Declassified E.O. 12356 Section 3.3/NND No. 785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

105
RHW/jpl

ACC/4083/1/L

24 FEBRUARY 1949

SUBJECT : Case of (1) GIRASOLE Luigi (2) SANTORO Innocenzo
(3) DeSILVIO Vincenzo (4) IANNUCCI Pasquale
(5) AULETTA Pasquale.

TO : RLO (thru RO) Region III.

1. The sentences in these cases have been revised in each case to one year's imprisonment and fine of 50,000 lire, with forfeiture of the 25,000 lire bribe money.

2. A Summary Court has no jurisdiction to sentence a person to imprisonment for more than one year therefore the additional six months in lieu of payment of fine has been eliminated.

3. Likewise the forfeiture of the other money found in the possession of the accused persons has been eliminated. There was no ground for such forfeiture. The money was ostensibly their own property and was not the basis of improper use in the case, for there was no black market charge involved. However the money so taken from the individuals should be applied against their fines and the balance, if any, restored to them.

4. The bribery charge was a very serious one and it would appear that it should have been tried in a Superior or General Court rather than in a Summary Court.

RICHARD H. WILMER

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

1950

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

104

RHW/jpl

ACC/4083/1/L

SUBJECT: Case of BIVILLA Pasquale.

24 FEBRUARY 44

TO : DLO AMG 8th Army.

1. The sentence in this case has been revised. If under the sentence, no part of the fine were paid, the accused would have to serve 500 days at the rate of 50 lire per day as the sentence reads making a total imprisonment of 2 years and approximately 4 months. Any such sentence is in excess of the jurisdiction of a Summary Court.

2. As an inducement to the payment of the fine the sentence has been revised to provide for six months imprisonment and fine of 25,000 lire and in lieu of such payment an additional term of six months.

RICHARD H. WILSON

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

1951

785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

103

/gnd

22 February 1944.

ACC/4083/1/L

SUBJECT: Case of Angelucci Vincenzo.

TO : SLO AMG 8th Army.

1. The conviction and sentence are affirmed with modification showing forfeiture to Allied Military Government.
2. The record does not show whether the court was a Superior or Summary Court. Records must show the type of court.
3. AS the fine has been paid, ~~and therefore~~ the question of the propriety of the additional sentence over the one year as an alternative to payment of the fine in case the trial was before a Summary Court does not arise ~~as fine has been paid~~. If the court was a Summary Court its jurisdiction was limited to one year imprisonment altogether.

RICHARD H. WILMER
Lt. Col. GAC
Deputy Chief Legal Officer. *66*

1952

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

785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 304

102

/gaf

23 February 1944.

ACC/4083/1/L

SUBJECT: Cases of Palma, Sorrentino, Palmieri, Casolaro & Ciccio.

TO : SLO AMB 5th Army.

1. The record in these cases is returned.
2. The conviction and sentence of Casolaro have been quashed as there is insufficient evidence to form the basis of a conviction.
3. It is not possible to give a final decision on review to the case of Palma because while the record is silent on the confiscation feature, the letter of Col. Shields, dated 6 Feb 44, attached indicates that the judgment included confiscation. If Col. Shields letter states the facts correctly the record should be completed. In any event it should be returned forthwith for completion of the review.

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

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1953

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

101

ACC/4083/1/1

RHW/jpl

23 Feb 1944

SUBJECT : Case of GLASSER Werner.

TO : RLO (thru RC) Region 4.

1. The conviction and sentence in this case are affirmed except as to the forfeiture of 10,000 lire which is reversed.

2. The forfeiture of 10,000 lire is with reference to para (a) of the charge according to the record. There is nothing in the record to show that the 10,000 lire was the money paid as bribe under paragraphs (a) and (b) of the charge. It is true that in the petition for review there is a waiver, but the reviewing authority must act entirely upon the record of the trial Court itself. Where bribe money is clearly identified in a particular case it can be forfeited, but that is not the situation here.

RICHARD M. WILMER

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

01

1954

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

785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

100

/gmf

22 February 1944.

ACC/4083/L/L

SUBJECT: Case of Sportelli Giuseppe.

TO : RLO (thru RC) Region 4.

1. Because of the age of the accused, two of the three years of imprisonment is suspended. Additional imprisonment for failure to pay the fine as contained in the sentence remains unchanged.
2. The articles mentioned in the petition for review should be returned.
3. The bail money should have been returned. Possibly arrangements can be made, if the bail money is that of the accused, to have that used to pay the fine.

RICHARD H. WILMER
Lt. Col. CMC
Deputy Chief Legal Officer,

63

1955

HEADQUARTERS
ALIEN CONTROL COMMISSION
REGION II

721

File

1471

99A

9 Feb 44

Ref: 2201/51/G

Subject: Review of Sentence

To : Chief Judicial Officer, Legal Sub-Comm. ACC Salerno

1. Enclosed is Record of case held by a Superior Court at Bensang on 12 Jan 44 against Zunino, Enrico and 18 others.
2. An appeal is attached, in which it is thought that there is no merit.

Jackman
P. BURGESS, Major
RJO

62

1956

99

1944

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

22 February 1944.

ACC/4083/1/A

SUBJECT: Case of Zunino, Enrico and 18 others.

TO : RLO (thru RC) Region II.

1. The sentences in these cases are affirmed.
2. A comparison of the petition for review with the list of accused marked "A" shows that one SOLARI Savina (the christian name in the petition is not legible) is asking for commutation of sentence whereas the record does not show that this person was one of the accused at all. This should be checked immediately.

61

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

Review No. 536.

1957

98

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

RHW/gmf

21 February 1944.

ACC/4083/1/L

SUBJECT: Case of Cannistra Eugenio.

TO : BLO (thru RC) Region 2.

The sentence is reduced in respect of the fine from 25000 lire to 10,000 lire, or in lieu thereof, to serve one day of imprisonment for each 125 lire of the fine not paid, as the fine imposed seemed far out of proportion to thirteen packets of cigarettes found to be wrongfully in the possession of the accused. It may be that the court was cognizant of thefts of cigarettes from the Allied Forces in the neighborhood and was desirous of making an example of an accused as a warning, but if so, there is nothing in the record to such effect. As stated above, on the record alone, the fine in addition to 3 months imprisonment appeared very excessive in view of the small amount of cigarettes involved. The additional imprisonment at the rate of 125 lire per day for failure to pay the fine is not to be regarded as any directive as to the relation between unpaid fines and days of imprisonment to be used in other cases. This rate is merely to keep the proportion existing in the fine as originally imposed.

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

Review No. 535.

1958

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

785016

97

/gaf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

21 February 1944.

AOC/4083/1

SUBJECT: Case of Pezalla Vincenzo.

TO : S.I.O. AND 8th Army.

1. The conviction and sentence in this case are affirmed.
2. Attention is called to the fact that the record does not contain the synopsis of the evidence in the case. Were it not for the fact that enough information can be gained from the examination of the petition for review and remarks of the trial judge and the fact that there was a conviction, the case would have to be sent back for completion and in absence of that being done, the conviction and sentence would have to be quashed.
3. It is absolutely essential that every trial judge furnish a statement of the evidence containing the names of witnesses and synopsis of their testimony. Otherwise, generally, it is impossible to make an intelligent review of a case.

59

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

Review Case No. 534.

1959

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION.
APO 394.

96

21st February 1944.

REFERENCE :

ACC/ACB/1/1.

SUBJECT :

Cases of Castelli Incoronata, Alzubo Marinara.

BY :

R.S.O., (Chief Regional Commissioner) Region 5.

The above named persons were tried with incoronata and 18 others for taking part in an unauthorized assembly but the record fails to show any evidence against them. The sentences against the said two accused are therefore quashed.

RICHARD H. WILSON.
Lieutenant-Colonel, C.A.C.
Deputy Chief Legal Officer.

RDW/vow.

1960

NEW HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION.
APO 394.

95A

21st February 1944.

REFERENCE : ACC/4483/1.
SUBJECT : Cases of Bookach Herbert and Sandra Hans
TO : S.I.C., A.M.C., 8th Army.

In view of the remarks of the trial judge the sentences in these cases have been reduced to two months. However, it must be pointed out that circulation in areas particularly near the front must be carefully regulated.

RICHARD R. WENZEL.
Lieutenant-Colonel, G.A.C.
Deputy Chief Legal Officer.

ACW/wce.

1961

REGIONAL
ADMINISTRATIVE CENTER
REGION II

22 FEB 1961
1076

10 Feb 61

H023/1.

Ref: 200/556

Subject: Review of Case

To : D.C.L.G., Legal Sub-Commission AOC, Salerno
ISLANDIA, AIRFIELD.

84

Ref clauses 2 and 3 of your letter 100/4087/A dated 12 Feb 61, the irregularity which you mention had already been noted, and IO's informed that petitions for review are to be sent to this HQ at your irrelative of merit.

B. J. ...
D. E. J. ... Lt. Col.
RSLA
Region II

*Legal
V...*

56

1962

785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

leaf

21 February 1944.

ACC/4083/1/L

SUBJECT: Case of Pietrarois Nicolo and Pietrarois Celestino.

TO : SLO AMG 8th Army.

In view of the statement of the trial judge in connection with the application for review the sentence has been modified to 6 months imprisonment and suspension of the balance. It should be pointed out that this review was hampered by failure of the trial judge to set forth in the synopsis of the evidence the amount of grain which had been bought at the excess price. The extent of the crime is always an important element for the reviewing officer to know.

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

Review Case No. 517

53

1963

785016

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

93

100

20 February 1944.

ACC/4083/2/L

SUBJECT: Laudi and Iorio.

TO : Regional Judicial Officer, Region 2.

1. Ref your letter of 3 Feb. 44 the decisions in above cases were on 27 Jan. last and in the absence of any appeal duly affirmed.
2. The Petitions since received though dated 9 Nov. 43 have been considered together with the records and it is considered there is no reason to interfere with the decision of affirmation which accordingly will stand.
3. Appeal Petitions and enclosures are returned herewith.

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

54

1964

HEAD HEADQUARTERS
ARMED FORCES COMMISSION
REG. 1. SUB-DIVISION
APO 394.

(9)

18th February, 1964.

REFERENCE : 100/1055/1/L.
SUBJECT : Case of Donato Domencia.
TO : Senior Legal Officer, A.F.C., 8th Army.

This case is affirmed but it is pointed out that the second sentence is rather useless. The 120 days will be served concurrently during the first sentence of one year and there is no need or inducement to pay the fine.

Review 514

R. H. J.
GERALD B. URJOEN.
Colonel,
Chief Legal Officer.

53

100/1055.

1965

91

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION.
APO 394.

18th February, 1944.

REFERENCE : ACC/4283/1/L.
SUBJECT : Cases of GARNITO, Malchiorre.
TO : R.L.O. (Area Regional Commissioner) Region 1.

1. The conviction in this case is affirmed but the sentence has been reduced from penalty of death to 21 years which is allowable under Art. 575 of the Italian Penal Code. The principal charge in this case was based on a breach of Art. 575. The court erroneously applied the death penalty under Art. 576 as implemented by Sec. 1 of Art. 61. Under Italian procedure when a person is charged under Art. 575 and the evidence adduced in the case indicates an aggravated offense within the purview of Art. 576, it is requisite that the hearing of the case be suspended and accused be given an opportunity to prepare his defense against the aggravated charge. The record shows nowhere that this opportunity was afforded the accused. Aside from the question of whether in an unusual situation of this kind Italian procedure as a condition precedent to further action should be followed and aside from the departure from well established legal principles in that the charge was in effect increased at the conclusion of the trial, certainly it was unfair to do so without giving the accused an opportunity to prepare to meet it.

2. On the substance of the charge of possession of arms in violation of Declaration 2, Art. 1, Section 5, the accused was of course strictly speaking liable to the death penalty.

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

Review 512

1966

REAR HEADQUARTERS
JULIET CONTROL COMMISSION
LEGAL SUB-COMMISSION.
APO 394.

90

18th February, 1944.

REFERENCE : ACC/4485/1/1.
SUBJECT : Cases of ~~Carone~~, Bellisario & Larusa.
TO : H.I.C., (thru Regional Commissioner) Region IV.

1. The records in the above cases are returned herewith. In each instance there is recorded a plea of not guilty. Yet there is no record that any evidence was introduced by the prosecution to prove its case. There is, of course, the inference to be drawn that some evidence was introduced for otherwise it is to be assumed there would have been no conviction.

2. In order that any intelligent review may be had, it is essential that a resume of the evidence for prosecution and defence be stated with names of witnesses and scope of their testimony.

3. In each of the first three cases a fine was imposed. The record does not show payment, nor does the record show the infliction of any imprisonment in lieu of payment.

4. In the first, second and fourth cases the record fails to show the disposition of the illicit articles.

5. If it is possible, the trial judge should complete the records and they should be returned for further review. Completed or incomplete they should be promptly returned for final disposition.

31

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

ACTW/wcw.

1967

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4089/1/L

ACW/jpl

13 FEBRUARY 44

SUBJECT : CATALANO Gaspare fu Michela.

TO : HQLO (Through HQ) Region I.

Nine months of the prison sentence have been suspended as it does not appear to have been a bad case and the threat of a suspended term may induce CATALANO to be of good behavior in the future.

A. C. WRIGHT

Major
for Chief Judicial Officer.

Review 5 11

50

1968

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

88

12 February 1944.

ACC/1083/V/1

SUBJECT: Catania Giuseppe.
RU : S.I.O., Region 1.

The reason for washing the sentence against Catania, Giuseppe is that there is really no evidence against him.

He was implicated by the confessions made at first by the other accused to the CC/R but at the hearing in Court they all repudiated that part of their confessions alleging his participation in the crimes. The other parts of their confessions are corroborated by the facts, depositions of victims, etc., but there is no corroboration of Catania's alleged participation and he was not identified by any of the victims.

It may be highly probable that he was the leader of the gang but it is not safe to convict him on such unreliable evidence.

RICHARD H. WILSON
Lt. Col.
Deputy Chief Legal Officer

48

1969

HEADQUARTERS
ARMED CONTROL COMMISSION
Legal Submission.
AGC 394.

ACW/gaf

12 February 1944.

AGC 4083/12

SUBJECT: Lucella Nichols.

TO : R.C.L.C. (thru R.C.C.) - *Issue. Region 1*

1. The above named was on 17 Dec. 43 sentenced to one year' imprisonment for being in possession of a pistol.
2. In the Petition for Review it is observed that the Advocate says he is "an officer released on parole" (liberate sulla parola). This circumstance does not appear to have been mentioned at the trial.
3. It is requested that his exact status be ascertained and a report be made as quickly as possible to this HQ so that the review may be definitely disposed of.
4. Papers herewith for information and return to this HQ.

RICHARD H. WILKIN
Lt. Col.
Deputy Chief Legal Officer.

1970

HEADQUARTERS
ARMED FORCES COMMISSION
Legal Sub-Commission
APO 394

86

12 February 1944.

SEC/AFS/1

SUBJECT: Bonasera.

TO : A.C. Region 1.

The reason for varying the latter part of the sentence is that the alternative of one year's imprisonment for nonpayment of a fine of lire 5000 is altogether disproportionate.

It is felt that the extra term should be credited at least at Lire 50 per diem and even at higher figure in suitable cases.

WALTER H. TIERCE
Lt. Col.
Deputy Chief Legal Officer.

Review case 506

1971

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

85

12 February 1944.

ACC/1053/1/L

SUBJECT: Application for review, Rossi Attilio & Colitto Vittorio
TO : SLO, AMG H, 8th Army.

1. The record in the above case is returned herewith.
2. The sent nces have been quashed because the record discloses no evidence upon which a conviction could be based. Furthermore the record makes no disclosure of the alleged acts forming the basis of the charges and fails to give even the gist of any evidence adduced in support of the charges.
3. Apparently the trial judge misconstrues Proclamation No. 7. It was aimed entirely at the dissolution of the Fascist Party and against the establishment of any similar organization to replace it ideologically. This Proclamation naturally is not the basis for the bringing of charges against anti-fascist activities.
4. It is not the intention of Allied Military Government to prohibit non-fascist political activity as long as it does not interfere with the military effort, particularly in the forward areas, or with public order.

RICHARD H. WILMER
LT. COL.
D.C.L.O.

46

4083/1

84

SECRET

- 1. This case is serious and must be handled.
- 2. I have reviewed the reports in the caption for review and as follows:
- 3. It is suggested that all evidence be reviewed and submitted to the appropriate authorities, together with any pertinent reports.

Very truly yours,
[Signature]

1973

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

23
AGC/gmf

11 February 1944.

AGC/4083/1/L

SUBJECT: Death Sentence.
Di Noto Felice
La Monica Giuseppe.

TO : Regional Commissioner, Region 1.

1. The above named were on 3rd Dec. 1943 sentenced to death by judgement of an Allied General Military Court.

2. The record with confirmation of the death sentence by the Military Governor dated 31 Jan. 1944 is transmitted herewith for the carrying out of said sentence.

GERALD UPJOHN
Colonel
Chief Legal Officer.

43

1974

785016

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
Salerno Detachment.

82

5 February 1944.

ACC/1083/L.

SUBJECT: Review of Cases.
Case of Scannevino Antonino.

TO : PCLO (thru RCAF) Region 1.

Before this case can be satisfactorily reviewed it is desired to know:-

1. What was the order which the accused is alleged to have broken.
2. When, how and by whom was it given.
3. How many bottles of wine are alleged to have been sold.
4. What were the circumstances of the accused which the trial judge took into account in assessing the fine at 25,000 Lire.

It is felt that these matters could have been looked into by the officer who wrote the covering note before the case was submitted for review.

43
GEORGE POLLOCK, Colonel
Chief Judicial Officer.

*Below papers
recovered with the letters*

1975

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
Salerno Detachment

80

4 February 1944

ACC/4083/L

SUBJECT: Case of MIRRO Gaetano.

TO : R.L.O. Region I.

79

1. There are 2 separate cases concerning this man.
2. On the charge of stealing the accused was properly convicted and sentenced. Conviction and sentence were affirmed on review and must stand. The sentence was a very moderate one.
3. On the entirely separate charge of perjury he received the lenient sentence of 3 months imprisonment.
4. As the offences are entirely separate and distinct I see no ground for making the sentences concurrent and I affirm the decision that the sentence for perjury should be consecutive with the other.
5. It should be borne in mind that the perjury by the accused may have avoided the imposition of a heavier sentence in the first case.

GEORGE POLLOCK, Colonel
Chief Judicial Officer.
.. 42

1 9 7 6

WJC

ALLIED MILITARY GOVERNMENT
SICILY REGION HEADQUARTERS
APO 394

79

File: HBS 013.04/78J

25 January 1944

SUBJECT: Making sentences run concurrently.

TO : G.L.C., APO HQ., APO 394.

1. This case was submitted and affirmed on 8 November 1943.
2. Lt. Col. Paletti has asked that it be again submitted with the view of making the two sentences run concurrently.
3. It is again submitted for your consideration.

For Lt. Col. PALETTI, HQSC:

WILLIAM B. JORDAN,
Lt. Col. G. A. C.,
Regional Legal Officer.

JG

Incl. File.

41

1977

100

Admin Sec

Subject: Review of Sentence
To: S.L.O. Am.S. 8th Army

73

74

Herewith report of trial of case by Captain Leguin at San Salvo & petition for review. The documentary evidence referred to by Capt. Leguin in his note on Form 11 is that of MORO Domingo attached to the note on transcript of the trial.

Captain Leguin stated that he knew the man to be a bad influence on the commune, & that the F.S.S. knew about him. I informed him that in such cases if the F.S.S. considered ~~him~~ a man to be a subversive element they had power to recommend him for internment, which might be a better method of dealing with the case than trying him on a very vaguely worded charge as in D'ALOISIO's case.

31 Jan 46

1st Ind. 1/2/44

G. M. Wolford
Major
P.S.L.O. Chief

To: S.L.O. Am.S. 15 Army Sp.

1. Forwarded.

Edwin J. Mercer

EDWIN J. MERCER, Maj. Gen.
Special Staff Officer, AMG, 3rd Army

695

1978

COMUNE DI LENTILLERA

IO SOTTOSCRITTO MORS DOMENICO COMMISSARIO CIVILE DEL COMUNE DI LENTILLERA
VENENZIO D'ALOISIO COSMO IN FERDINANDO, GIÀ SEGNALATO ALLA POLIZIA ANGIO
AMERICANA PER AVER COOPERATO CON I TEDESCHI E SORVEGLIATO, PERCHÈ DA DI-
VERSI GIORNI CON SOTTOSCRIZIONI ALLEZA LA MAGGIOR PARTE DEL POPOLO, SPECIE
IL CETO BASSO (ANALISIBETH) A FARE UNA RIVOLTA CONTRO LE AUTORITÀ DEL
COMUNE.

Lentillera, li 29/12/1943

*I, the sgn. Mors Domenico, Comm. civile for Lentillera
D' Lentilla (sgn. D' Aloisio Cosmo in Ferdinando, lately pointed
out to the Anglo American police for having cooperated with
the Germans, has been watched because on different
occasions with petitions he has instigated the greater
part of the population, especially the lower classes (idiotically)
to revolt against the authorities of the commune.*



COMMISSARIO CIVILE
(MORS DOMENICO)
Mors Domenico

COMUNE DI LENTILLERA

1979

SUBJECT: Proceedings of Summary Courts.

4083

Rear AMB Eighth Army.

P.S.L.O.,
AMB H.Q. 15 Army Group.

Adm Sec

Ref: OA/13/47a.

31 Jan 44.

1. Records of subject proceedings forwarded with criticism of P.S.L.O. to the Court in appropriate cases.
2. Major McIntyre will be visited and admonished on his apparently small sentences.

Edwin J. Mercer

EDWIN J. MERCER,
Major CMD.,
Senior Legal Officer.
AMB Eighth Army.

693

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

(59)

ACC/ACB3/L.

31 January 1944.

SUBJECT : Review of Cases.

TO : ECLO, Region 2.

1. Record of proceedings of a General Military Court against Scels Angelo and others is returned herewith.
2. The decision on review is that all convictions and sentences are quashed.
3. The reasons for this decision are as follows:
 - (a) On the case as a whole:
 - (i) The accused were charged with the commission on 23 September 1943 of offences against AME proclamations. The prosecution failed to show, when the point was raised, that the proclamations under which the charges were laid were in force at that date.
 - (ii) It is most improper in a case of this nature where heavy sentences are involved for advocates to be limited to 5 minutes in a closing address on behalf of several accused.
 - (iii) It appears from the record as a whole that the accused did not receive a proper trial.
 - (b) In the case of individual accused:
 - (i) TOMASCO. The evidence is that Tomasco was authorized to collect the petrol which would otherwise have been lost and would not have remained the property of the Allied Forces. He should never have been convicted. 30
 - (ii) DE BELLIS. He was authorized to remove the seat of the plane. It is true that this authority is not valid in law, but in the face of it the offence becomes merely technical, and the accused, if convicted, should not have been punished.

58

- (iii) FARULLO. There is no evidence against this accused on the second charge. On the first charge there is no evidence that the accused stole any of the property and a very thin case of suspicion on the charge of possession. It appears strange that this accused, who admittedly rendered assistance and hospitality to the crew of the wrecked airplane, should receive a sentence of 3 years imprisonment and a fine of L. 10000.
- (iv) The remaining accused admittedly removed various parts of the plane and could have been convicted if properly charged and tried for offences under Italian law.

h. It would appear that the Court in reaching their decisions were influenced by statements made out of Court but repudiated in Court. Such statements are not evidence except against the persons who actually made them. In any event, upon review of cases, the Reviewing Authority is bound by matters which are properly admissible as evidence and which appear in the Record.

GEORGE POLLOCK,
Colonel,
Chief Judicial Officer.

36

54

PROSECUTOR
ARREST OFFICE COMMISSION
(SALERNO DISTRICT)
MILITARY PROSECUTION

AR/4082/L

SUBJECT: Review of Cases

TO : A.S.A.C. (from ARAC) Region II

28th January 1944

Refer now review of the following cases :-

- 1. Niveili Francesco - 15 years
- 2. D'Angelo Giovanni - 15 years
- 3. Di Giuseppe - 15 years
- 4. Cilento Alessandro - 12 years
- 5. Renzi Giuseppe - 17 years
- 6. Agosti Costante - 17 years
- 7. Novati Giuseppe - 17 years
- 8. Polito Pietro - 21 years
- 9. Giannatani Gennaro - -

1. It is understood that Niveili and D'Angelo have been released in accordance with your letter to SAC, Salerno of 1 Jan. 1944. If not, they must be released immediately. In either case their release should be continued subject to good behaviour and on 12 months as to residence and reporting outlined in your letter. These terms should continue for one year from the date of sentence. If the conditions are broken the boys to be sent to a juvenile school.

2. In the case of Di Giuseppe and Cilento Alessandro the restrictions and sentences are affirmed.

3. In the case of Renzi, Agosti and Novati it is felt that these boys should not initially have been sent to the juvenile school. It is now too late for such a course. It is, however, undesirable to keep them in prison and the decision therefore is that these convictions are affirmed; the sentences are affirmed but suspended after three months in prison subject to good behaviour.

4. In the case of Polito the conviction and sentence are affirmed.

36

5. In the case of Giannatani the conviction is affirmed; the sentence is varied to read 'Three months imprisonment and fine of lire 50,000; if fine not paid before end of prison term accused to serve a further nine months imprisonment'. The reason for this decision is that the total prison sentence should not exceed one year as ~~maximum~~ **awarded** by a Summary Court.

W.D. Shurman

Lt. Col.
for, Chief Judicial Officer.

1983

HEADQUARTERS
ARMED MILITARY GOVERNMENT
REGION II

Adm Sec
1057
26 Jan 44

Ref: 2201/56/3.

Subject: Review of Sentences

To : Chief Judicial Officer, Legal Sub-Comm. AMG Naples.

Records and Appeals in the following cases are sent to you for review. It is regretted that they have not been sent to you before, and owing, it is thought, to a misunderstanding, they only reached this HQ a day or so ago.

1. Polito, Pietro, and Renzi, Giuseppe. The latter has been provisionally released on conditions as his age is only 17. Sentence 1 year's imprisonment.
2. DeCaro, Nicola - Sentence 1 year's imprisonment.
- ✓ 3. Stalato, Angela and others, with correspondence annexed. This case was heard before the province of Salerno was incorporated in this Region. Apparently the persons concerned in attempting to suppress an appeal, and subsequently releasing one of the accused, were under the impression that they were the reviewing authority. This matter is being dealt with by the SCAG.
4. Marino, Teodoro, sentenced on 3 Nov to 1 year's imprisonment. Sforza, Cosimo, sentenced on 30 Nov to 1 year's imprisonment.
5. Marzano, Pasquale sentenced to 3 months imprisonment on 5 Dec.
6. Rosommano, Antonio sentenced to 6 mos imprisonment on 5 Dec. 35
7. Tancredi, Mauro and others convicted on 5 Dec.
- ✓ 8. Vito, Domenico sentenced on 17 Dec to 5 mos imprisonment.
9. Montone, Ugo, sentenced on 18 Dec to 1 year
10. Musella and Manni convicted on 22 Dec 43. The SCAG has authorized the LO at Salerno to instruct CAOs as to the necessity for making out charges in proper detail, and reporting the ages, occupations and addresses of accused persons.

1984

66

Letter 2201/56/3 26 Jan 44 ex 53.

All but the last two cases took place prior to the incorporation of the Province of Salerno into this Region.

Copy letter from SCAD to SCAS Salerno is enclosed herewith.

M. Mackhouse

F. MACKHOUSE
Major, BJO

Record and Appeal in the case of Sforza, Cosimo, sentenced on 30 Nov 43 to 12 months' imprisonment is also enclosed.

34

SEEN	
ADMIN DIRECTOR	
CHIEF STAFF O.	
STAFF O 1	
STAFF O 2	
STAFF O 3	
CHIEF CLERK	197
DATE	2/1

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION II

(68) 1057
25 Jan 44

Ref: 110/56/6

Subject: Case Records, Salerno

To : SCAG Salerno

1. Your attention is drawn to irregularities which have been taking place in connection with the proceedings of certain Summary Courts held in your Province. These are revealed by a large number of case records which have been recently been sent to this HQ, though it is appreciated that several of these irregularities took place before your Province was incorporated into this Region.

2. It is however obvious that some Summary Courts are being held without regard to certain elementary rules. The following are instances of some of the faults revealed:-

(a) Accused persons are charged with "Violation of Proclamation No... Article... Section..." No other particulars whatever appear on the record, and no charge sheet is annexed thereto. Details of charges are inadequate. They should set out time date and place of offences. Charges such as "stealing sugar" are inadequate. The amount stolen has a considerable bearing on the case.

(b) There have been many cases in which persons have been prosecuted for stealing or being in unlawful possession of property belonging to the Allied Forces. Frequently there is no evidence whatever of stealing, but ample evidence of being in unlawful possession. In such cases the Court must amend the charge to one under Section 40 instead of Section 27. In one batch of cases which should have been brought under Section 40, the accused were actually charged and convicted under Article I Section 18. As the sentences were appropriate to convictions under Article II Section 40, no injustice fortunately appears to have been done. In one case an accused is charged under Article I Section 2 for an offence which the evidence reveals is clearly one of being in unlawful possession of property. This is incredibly careless on the part of the officer taking the Court.

(c) Several cases are revealed in which an accused has pleaded guilty, but has been found not guilty although the original plea has not been annulled. In one case the accused in his statement admits his guilt, yet the case is dismissed "for lack of evidence." If an accused pleads guilty, the Court need only hear a sufficient statement by the prosecutor or sufficient evidence from witnesses as to enable it to determine the sentence to be imposed. There can be no question of a dismissal.

(d) Certain officers are arrogating to themselves the powers of the Chief Judicial Officer. In one case in which an appeal was lodged, it was deliberately suppressed, the CMO declining to recommend it and suggesting that it should be considered in a month's time. In many other cases prisoners have actually been released prior to the expiration of their sentences. Will you please make it clear to all your officers that records are to be sent to you for forwarding to this HQ immediately after trials, that appeals are to be dealt with

judicially as soon as they are received, and that no officer has any power whatever to release any prisoner or alter any sentence save on instructions from this HQ as a result of review. Recommendations can of course be made at any time.

3. The review of cases does not appear to be understood. The Regional Judicial Officer at this HQ is empowered to review all cases in which the sentence does not exceed two years' imprisonment or £ 50,000 fine, provided there is no appeal. Cases in which the sentence exceeds two years' imprisonment or £ 50,000 fine are sent to the Chief Judicial Officer HQ. In all cases in which appeals are lodged, the papers are sent for review to the Chief Judicial Officer, irrespective of the sentence. A conviction and sentence may therefore be affirmed by the Regional Judicial Officer, but the moment an appeal is received the whole case is reviewed again by the Chief Judicial Officer.

4. It is appreciated that GAOs may make technical errors, but the instances quoted above are partly the result of failure to read or carry out the Administrative Instructions- Legal No 2, partly carelessness, and partly ignorance of the fact that once sentence is passed it can only be altered by the Chief Judicial Officer, or, in certain cases, by this HQ.

5. The good work done by Summary Courts in your Province in disposing adequately of a very large number of cases is much appreciated, and in the rush of work mistakes are to be expected. The duty of reviewing cases is however necessarily critical, and it is felt that many of the mistakes mentioned above are of the type that could have been avoided.

6. Please bring the contents of this letter to the notice of all officers in your Province who hold Summary Courts.

G. W. Mc Caffrey
G. W. McCAFFEY,
Lt. Col. Inf.,
KIAO

HEADQUARTERS

ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION
APO 394

GP/jpl

24 January 44

AMG/4083/1

Subject : Trial of TAVUUA Alberto

To : E.C.L.O. Region II (Through RCAF)

1. It is clear from the judgement in this case that the President misdirected the Court. Any killing may be shown to be either justifiable as "where the homicide is committed in prevention of a forcible or atrocious crime" or excusable as "where a man kills upon a sudden encounter merely in his own defense or in defense of his wife.....and not from any vindictive feeling." (See M.M.L. 1929 ed P 116)

2. A killing which would otherwise be murder becomes manslaughter "if the act from which death results was committed under the influence of passion arising from extreme provocation by the victim." (P117) The provocation must be such as might reasonably be expected to cause an ordinary person to lose his self control.

3. Self defense would have been a good defense to this charge and the evidence as to provocation is relevant to establish the nature of the killing. The President was therefore wrong in stating that the two defenses advanced were irrelevant.

4. A new trial is therefore ordered and it is directed that the following charges be preferred:

- (a) Violation of Proclamation No. 2 Article 1 Section 16. That he did kill one SAMUEL WILCO, a member of the ALLIED FORCES at San Leonardo di Cutro on 21 Sept. 44.
- (b) Violation of Proclamation No. 2 Article 1 Section 5. That he had in his possession a firearm after the date fixed by public notice and not in accordance with a permit of the Allied Military Government.

5. As soon as the date of trial can be fixed a General Military Court will be appointed by this Headquarter.

GEORGE POLLACK
Col.
Chief Judicial Officer

1988

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION II

Adm. Insp.

136

21 Jan 44

Ref: 2201/35/19

Subject: Review of Sentences

To : Chief Judicial Officer, Legal Sub-Com. AMG Naples.

Ref your GP/rlp of 11 Jan., as the record was not enclosed it is difficult to be certain as to what case reference is made. It is thought that the case referred to is that against Giacobbe, Rosario. Would you please confirm.

HEADQUARTERS
73
AMG

D. S. Cousins
D. S. COUSINS, Lt. Col.,
R. C. I. C.

30

1989

HEADQUARTERS
ARMED MILITARY GOVERNMENT
REGION II

12 Jan 44

Ref: 2201/37/16

4083

(41)

Subject: Review of Cases

To : Chief Judicial Officer, Legal Sub-Comm. Rear Detachment,
Palermo

1. Ref clause 4 of my letter of 1 Jan. (2201/37/6), the charge sheet is now enclosed.

Richard Raso

D. E. S. COUSINS, Lt. Col.,
E1D

HEADQUARTERS
10 JAN 1944
4083
AMG.

*Letter referred to addressed Palermo
Probably not in way with shipment.*

23

1990

HEADQUARTERS
ARMED MILITARY GOVERNMENT
REGION II

Arthur J. ...

(12)

12 Jan 44

Ref: 2201/37/16

Subject: Review of Cases

4083

48

To : Chief Judicial Officer, Legal Sub-Comm. Rear Detachment,
Palermo

1. Ref clause 4 of my letter of 1 Jan (2201/37/6), the charge sheet is now enclosed.

HEADQUARTERS
10 JAN 1944
4083
AMG.

Richard Pajo

D. E. S. COUSINS, Lt. Col.,
KOL

Letter referred to addressed Palermo
Probably not in way with shipment.

23

9 9

G O V E R N O M E N T O I T A L I A N O A L L I E S

F O G G L I O D I A C C U S A

Place
Luogo CAPACCIO

Date 2 October 1943
Data

POLINO PIERRO and RENZI GIUSSERS

CAPACCIO PRISON

(nomi degli accusati)

(indirizzo)

Are hereby charged with the following offences:-

Offence:-Violation of proclamation N°2, Art. II, Sec. 27,

Art. III, Sec. 2.

(Offesa):(Violazione del Proclama N°2, Art:II, (27), e Art:III

2;

Particulars:-That the above named accused at the motor park of BelleryH, 213th CA(AA) Regiment, Paestum, Province of Salerno at or about 11,00 A.M., 29th October 1943, did wrongfully steal and attempt to steal property of the allied Forces of a value not in excess of 10,000 Lire in that at said time and place they were apprehended in the act of attempting to remove articles from a U.S. Army truck, knowing same to be the property of the Allied Forces.

(Particolari):- Che il suscennate accusato nella piana adibita per stazione automezzi della batteria H,213 CA(AA) reggimento, del Paestum, Provincia di Salerno, verso le ore 11,00 antimeridiane, del 29 Ottobre 1943, indebitamente sottrasse, e attentò di sottrarre proprietà delle forze Alleate di un valore non in eccesso alle 10,000 Lire, ed in ciò alla suscennata data, e nel suscennata posto, furono sorpresi nell'atto di voler rimuovere oggetti da un automezzo americano, sapendo che lo stesso apparteneva alle Forze Alleate.

Be non tradette dall'ufficiale, voi devete farvelo tradurre da un sergente presso qualsiasi ufficio di Questura.

Le suddette accuse sono riferite a processo davanti alla Summary Military Court at Capaccio.

Per ordine

truck, knowing same to be the property of the plaintiff, in the
(particolari):- Che il succennato accusato nella piano di
per stazionare automezzi della batteria H,213 CA(AA) reggimento, del
Paestum, Provincia di Salerno, verso le ore 11,00 antimeridiane, del
29 Ottobre 1943, indebitamente ha sottrasse, e attento di estrasse
sottrarre proprietà delle forze Alleate di un valore non in eccesso
alle 10,000 cc Lire, ed in ciò alla succennata data, e nel succenna
pente, furono sorpresi nell'atto di voler rinuovere oggetti alle forze
a. thecarre americano, sapendo che lo stesso apparteneva alle forze
Alleate.

Se non tralotte dell'ufficiale, voi devete farvele tradurre de un

uice e presso qualsiasi ufficio di Questura.

Le suddette accuse sono riferite a processo davanti alla Summary
Military Court at Capaccio.

Per ordine

Indro Maled
Giudice, Tribunale Militare Inferiore
e altre individue autorizzate.

1993

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION II

4083 1115
49
3 Jan 44

Ref: 2201/37/8

Subject: Review of Cases

To : Chief Judicial Officer, Legal Sub-Commission, HQ,
Rear Detachment, Palermo

1. Ref my 2201/37/6 of 1 Jan and to the copy letter enclosed therewith (2201/57/5 to IO Salerno dated 1 Jan), would you in lines 11 and 12 of the latter cancel the words "AMCOT/4034/L dated 31 Aug 43" and substitute the words "AMG/4093/L dated 4 Nov 43".

Mark Dew. Howe
MARK Dew. HOWE
Major, AUS
RIO

27

1994

HEADQUARTERS
ALIED MILITARY GOVERNMENT
APO. 512.
LEGAL SUB-COMMISSION

AMG/4083/L.

11th December 1943.

SUBJECT: Trial of Perleto Giuseppe.

TO : R.S.L.O. Region 2.

I return herewith the papers in the case including the petition for review. I was glad to have your views but I have decided that the confirmation of the sentence must stand.

GEORGE POLLOCK,
Colonel.
Chief Judicial Officer.

Ence.

1995

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO. 512.
LEGAL SUB-COMMISSION

4003
43

AMG/4003/1.

11th December 1943.

SUBJECT: Trial of Ferlato Giuseppe.

TO : R.C.L.G. Region 2.

I return herewith the papers in the case including the petition for review. I was glad to have your views but I have decided that the confirmation of the sentence must stand.

GEORGE POLLOCK,
Colonel.
Chief Judicial Officer.

Encs.

1996

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO. 512.
LEGAL SUB-COMMISSION

File
(4)

AME/4083/L.

8th December, 1943.

SUBJECT: Case of Pace and Catalano.

TO : R.C.A.O. Region I.

The papers in this case are returned herewith. You will observe that the C.C.A.O. recommends that sentence of death be carried out without delay and that this has been confirmed by General Alexander. Please acknowledge receipt.

GEORGE POLLOCK,
Colonel,
Chief Judicial Officer.
for Chief Legal Officer.

1997

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

File
40

AM/AGM/

Subject:- Summary Court - Trepard.
Case of S. J. ... and others.

To: S.I.C. (thru RMAC) Region I

6th December 1943

1. Ref the request made by Capt. Brennan on 4 Dec 43 that the Decision on Review in the above case be reconsidered, it is regretted that this course is not considered to be proper and the decision is returned herewith without variation.

2. The legal position is correctly set out in your letter to S.I.C. Trepard of 20 Nov 43, para 2.

3. In cases of this nature, where there may be a doubt as to the physical capacity of the accused to serve a prison sentence, it is the duty of a Summary Court to remit to a Superior Court any case for which the maximum summary fine appears inadequate. It is not within the power of the Reviewing Authority to impose an illegal sentence in order to remedy a defect in procedure on the part of the Judge at the trial.

GP
Colonel,
Chief Judicial Officer.

1998

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUB-COMMISSION

32

4101
AMG/WAVY/L

4 DECEMBER 1943

SUBJECT: Case of FAZIO, DOMENICO Detained Moto Prison.
TO : D.R.L.O. W. H. DICKIE, Squadron Leader.

Reference, RLB 013.10 M/H

1. I have examined the three volumes of verballi, as well as the other documents previously referred to in the above case.

2. It is my opinion that the documents examined by me do not justify the conclusion that the conviction of FAZIO DOMENICO was improper. I cannot find any basis in the record before me, to sustain the view expressed by counsel for FAZIO that "politics overwhelmed the judges, who preferred to obey Fascism rather than the order of their conscience to absolve an innocent person."

Edmund J. Palmieri
EDMUND J. PALMIERI
MAJOR
for Chief Legal Officer

23

Copy to 4003/2 ✓

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO. 512.
LEGAL SUB-COMMISSION

file
(29)

AMG/4083/L.

2nd December, 1943.

SUBJECT: Superior Court, Trapani, Case of NASTASI, Domenico.

TO : D.R.L.C. AMG. II, Region I. *returned with case papers.*

1. Reference your RLM.013.04/FB of 30th November, herewith the decision on review in the above case. The grounds upon which this conviction is quashed are :-

2. At the date of trial, Revised General Order No. 5 prescribed 15th October, 1943, as the date for the declaration of excess commodities. The repeal of General Order No. 5 had the effect of nullifying the offence of failing to declare by 15th September. See also Italian Penal Code, Article II.

2. General Order No. 3 which is expressed to supplement the provisions of Proclamation No. 8, specified 31st October, 1943 as the date for delivery of grain.

3. If it is sought to suggest that some other offence was committed against Proclamation No. 8, Sec. IV, such as e.g. failure to declare crops at harvest time, details of the offence charged should have been clearly stated on the charge sheet. In any case, such a suggestion would plainly be contrary to Revised General Order No. 5.

GEORGE POLLOCK,
Colonel,
Chief Judicial Officer.

Review Serial No 283

28

ALLIED MILITARY GOVERNMENT.
Palermo Province.

WRJ/ELV, jr.

4083

2 December 1943.

SUBJECT : Review of Court Cases.
TO : C.L.O. AMGOT HEADQUARTERS.
THROUGH : C.S.O. AMGOT HEADQUARTERS.

The attached forms No. J 4 completed, are forwarded.

197

William R. Jordan
WILLIAM R. JORDAN
Lt. Colonel G.A.C.
Senior Civil Affairs Officer.
WRJ

SUBJECT: Arrests

FOI/17

27

TO : Regional Legal Officer
Region I (Sicily)
Palermo

THRU : Regional Civil Affairs Officer
Region I

Herewith returned form J-4, Serial 197, in the case of

FOTI and CAMPO.

William D. Staples
Captain, S.L.O.
for A.S.Giles, Major
S.C.A.O., Syracuse

Syracuse
29 Nov. 43
FLS

File

FORWARDED
ADJUTANT GENERAL
A.P.O. 512
MAIL STATION

404/4013/A

Subject - Summary Report - 11/11/54, 11/11/54.
Case of 11/11/54, Cleveland.

To - SAC, D.C. (thru SAC) Region I.

20th November 1954

1. Herewith enclose for review in the above case.

2. It is considered that the conviction on charge 2 was justified by the evidence and the sentence proper.

3. It should be observed that the facts of the case do not amount to an offense under charge 1. Item 3 of the indictment is aimed at the prevention of certain acts by the apprehension of official notes, the receipt for which is falsely alleged to have been given to the subject. In this case it is clear with the evidence of 11/11/54 that the use of the car was for the private purposes of the accused.

4. Since it is not so alleged necessary to require the witnesses, and to avoid further complications, the conviction on charge 1 has been quashed but the legal position should be brought to the attention of the recipient.

Wideman

1st Lt. Col. J. W. Wideman, Major, Adjutant General

ALLIED MILITARY GOVERNMENT
SICILY REGION HEADQUARTERS
APO 394

39

File: RLE 013.04/WD

28 November 1943

SUBJECT: Summary Court Trapani
Case of Sugameli Guiseppe and others

TO : SLO (through SCAG) Trapani

1. Reference your letter SCAG/3057/TP dated 23 November 1943, it is pointed out that the letter of 10 November to which you refer contains only the recommendations of this office to the Chief Judicial Officer and that where there is a discrepancy between the recommendations and the Decision on Review, Form J3, the latter must prevail.

2. This case was tried in a Summary Court where jurisdiction is limited to a fine of £50,000 so that the substitution of an additional fine for the prison sentence would not have been proper, and the suspension of the latter must be regarded as an act of clemency owing to the accused's state of health. You are referred also to Administrative Instructions AMG/4002/ Legal dated 1 November.

3. File of documents is returned herewith.

By Order of Lt. Col. POLETTI, SCAG:

H. M. Dickie,
Squadron Leader,
D.F.L.C.

wd

17

4-083

ALLIED MILITARY GOVERNMENT
Palermo Province

WRJ/FLV/js

(24)

26 November 1943

SUBJECT : Applications for Review
TO : Chief Legal Officer - AMGOT HEADQUARTERS
THROUGH : R.C.A.O. - SICILY REGION HEADQUARTERS

The attached forms No. J4 duly completed are returned
as requested.

William R. Jordan
WILLIAM R. JORDAN
Lt. Colonel, C.A.C
Senior Civil Affairs Officer.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 912
LEGAL SUB-COMMISSION

(22)
File

AMG/4083/L

Subject:- Case of Di Vincenzo Antonio fu Calogero

To: S.L.O. Agrigento Province
(through Region I)

26th Novr. 1943

Papers in respect of Superior Military Court at Agrigento in the case of Di Vincenzo fu Calogero are returned herewith.

When you have finally settled your decision the papers should be returned to this office for review.

G.P.
GEORGE POLLOCK
Colonel,
Chief Judicial Officer.

File

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

AMG/ACB3/L

Subject: Case of Pao and Catalano
Sentence of death

To: C.C.A.O.

26th November 1943

1. These two men were tried by an Allied General Military Court at ABRIGNO on 15, 16 and 17 September 1943, were convicted of murder and of being in unlawful possession of firearms and were sentenced to death.
2. On 10th October 1943 the C.C.A.O. recommended that the Military Governor should confirm the sentence of death and on 11th October 1943 the Military Governor concurred in the finding of the Court and confirmed the sentence of death.
3. The notice of petition was supplemented on 15th November 1943 by a detailed written petition (an extension of time for filing having been granted in view of the death penalty). This raises no point which had not already been fully considered.
4. Accompanying the petition was a memorandum dated 9th October 1943 from Lt. Col. Richard H. Hill, A.U.S., who was one of the five members of the Court.
 5. It will be seen from this, that Col. Hill
 - (a) abstained from voting as to guilt or innocence on the charge of murder, all other members of the Court voting "Guilty";
 - (b) voted in favour of guilt on the charge of unlawful possession of firearms, the voting being unanimous;
 - (c) voted alone against the imposition of the death penalty.
 6. Col. Hill states that he was given permission by the President of the Court to write to the Reviewing Authority and to the Military Governor.
 7. The Rules of Procedure for Allied Military Courts - Special Administrative Instruction Legal No. 2, para 10 - provide that "every question

3. The notice of petition was supplemented on 13th November 1943 by a detailed written petition (an extension of time for filing having been granted in view of the death penalty). This raises no point which had not already been fully considered.

4. Accompanying the petition was a memorandum dated 9th October 1943 from Lt. Col. Richard M. Hill, A.U.S., who was one of the five members of the Court.

5. It will be seen from this, that Col. Hill

- (a) abstained from voting as to guilt or innocence on the charge of murder, all other members of the Court voting "Guilty";
- (b) voted in favour of guilt on the charge of unlawful possession of firearms, the voting being unanimous;
- (c) voted alone against the imposition of the death penalty.

6. Col. Hill states that he was given permission by the President of the Court to write to the Reviewing Authority and to the Military Governor.

7. The Rules of Procedure for Allied Military Courts - Special Administrative Instruction Legal No. 2, para 10 - provide that "every question shall be determined by a majority of the opinions of the members of the Court".

8. In these circumstances the case is resubmitted (without comment on Col Hill's letter) to the C.G.A.O. for such action as he thinks desirable.

- DOCUMENTS ATTACHED:
- (1) Proceedings of Court
 - (2) Original submission to CMAO & Military Governor
 - (3) Petition for review with translation - Flag F.
 - (4) Memorandum by Lt. Col. Hill - Flag Q.

GP
 GEORGE FOLLOK,
 Colonel,
 Chief Judicial Officer.

ALLIED MILITARY GOVERNMENT
SICILY REGION HEADQUARTERS
APO 512

File: RLE 013.123/HD

19 November 1943

SUBJECT: General Military Court, Agrigento.
Cases of PACE and CATALANO.

TO : Chief Legal Officer, AMG HQ.

1. Herewith are submitted the following documents:

(a) File containing Record of Proceedings and Memoranda relating to the above case.

(b) File containing provisional and final appeals on behalf of the accused together with a letter signed by Lt. Col. Richard H. Hill, a member of the Court and a statement in Italian submitted by the lawyer representing the family of the murdered man, in which the facts are recapitulated and the arguments for the defense rebutted.

2. The Record of Proceedings has already been before General Alexander for confirmation of sentence, but it is thought proper to submit the case for final review in the light of the appeals which have since been recieved.

H. M. Dickie

H. M. DICKIE,
Squadron Leader,
D. R. L. O.

jd

11

AMCOT/4036/L.
AMCOT HQ., SICILY
14 October 1943

(19)

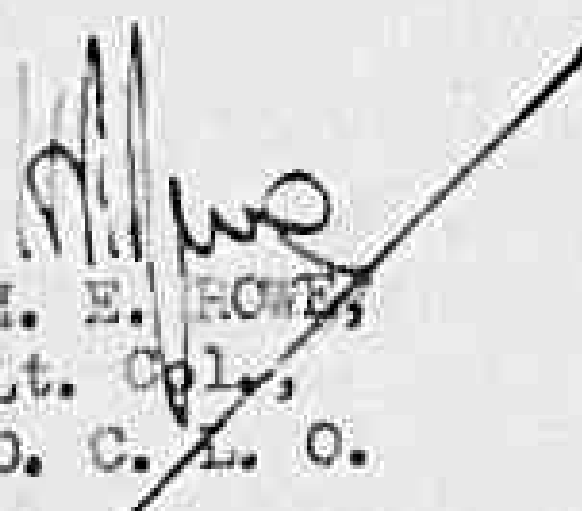
SUBJECT: Case of PACE and CATALANO.
Sentence of Death.

TO : C. L. O.

1. Herewith formal appeal on the above case made by the defendants' attorneys on their behalf. The appeal was delivered within the 30 days stipulated in Art. VII Proclamation No. 4. A copy of the transcript of the case has been given to the accused's lawyers as requested and they have been advised that the full appeal they desire to make should be lodged with S.L.O., Agrigento not later than 17 Oct. It may, however, be advisable to give a small extension of time if they ask for it.

2. Pending receipt of full appeal or effluxion of time, General Alexander should be asked not to make any final decision as to confirmation of the sentence.

3. When the full appeal has been received here, it will be forwarded to you at once. I am of opinion that your advice on review should then be reconsidered and that the case should be examined in all its aspects, including any points raised in the appeal.


H. E. ROWE,
Lt. Col.,
D. C. L. O.

D. C. L. O. - C. J. O.

jd

I concur. Hold till formal appeal submitted & then submit to me.

W. C. H. Col.

D. J. O.

ALLIED MILITARY GOVERNMENT
Islerac Province

WRJ/PLV/js

19 November 1943

(B)

SUBJECT : Review of Court Cases
TO : A.M.G. HEADQUARTERS - CHIEF LEGAL OFFICER.
THROUGH : SICILY REGION HEADQUARTERS

The attached Forms No. J4 duly completed are returned as requested.

William R Jordan
WILLIAM R. JORDAN
Lt. Colonel, C.A.C.
Senior Civil Affairs Officer.

H 2828

A. M. G. O. T.

12

GOVERNO MILITARE ALLEATO TERRITORI OCCUPATI
PROVINCE OF RAGUSA

SID/365
Ragusa, 18. II. 1943

Subject: Decision on review.

To : A.M.G. HQ. Legal Sub-Commission ✓

Ref. Your AMG/4002/I of 8. II. 43 forms N. j. 4 duly completed are returned herewith.



Major
Senior Legal Officer
Province of Ragusa

ALLIED MILITARY GOVERNMENT
Palermo Province

WRJ/ELV/js

17 November 1943

SUBJECT: Applications for Review
TO : R.S.L.O. - SICILY REGION HEADQUARTERS
THROUGH: R.C.A.O. - SICILY REGION HEADQUARTERS

Reference 13.04/RD dated 10 November 1943.

The attached Forms No. J.4 completed, are forwarded
for onward transmission to AMG HQ.

William R. Jordan

WILLIAM R. JORDAN
Lt. Colonel, C.A.C.
Senior Civil Affairs Officer.

1st Ind.

File: RLE 013.04/HD

AMG SICILY REGION HEADQUARTERS APO 512

17 November 1943

TO: AMG HQ - Chief Legal Officer.

Forwarded.

H. M. Dickie

H. M. DICKIE,
Squadron Leader,
D. R. L. C.

SUBJECT: Legal Policy

POS/12

TO : Chief Judicial Officer
AMG H.Q.
Palermo

THRU : Chief Legal Officer
Region I, AMG
Regional Civil Affairs Officer
Region I
Palermo

(10)

Received from Chief Judicial officer Forms J-3, accompanied
by Forms J-4, in the following cases:

VALENTI, SALVATORE
PISANO, ALFIO
SALERNO, SALVATORE
SORPANO, EMANUELE
HELLINO, PAOLO AND GIUSEPPE
ALOISI, GIUSEPPE AND BIPPA, VINCENZO
TERZO, GIUSEPPE
ARONE, GAETANO
CASSIA, SALVATORE
FRONTE, CORRADO
GIONFRIDDO, GIUSEPPE AND SERASTIANO
LINEA, LUCIA
LUGGETTA, VINCENZO

The forms J-4 are herewith returned signed.

AMG/4002/L, 8 Nov. 43, "Review", indicates that "the papers"
would be returned with forms J-3. No papers were received in the above
cases. Shall the forms J-3 be forwarded to Regional H.Q. for filing,
without "the papers".

Syracuse
17 Nov. 43
FDS

William H. Stokes
Captain, S.L.O.
for A. S. Giles, Major
S.C.A.O., Syracuse

4083
ALLIED MILITARY GOVERNMENT (9)

CIVIL AFFAIRS OFFICE

PROVINCE OF TRAPANI

13 Via Regina Margherita

(TRAPANI Sicily)

SCAO/3047/TR ✓
November 15, 1943.

SUBJECT: Form No. J4 (Legal)
TO : ~~Senior~~ Regional Legal Officer, Sicily Region Hq. Palermo.
THRU : Regional Civil Affairs Officer, Palermo.

1. Ref. your file: 13.04/HD
2. Herewith returning Forms No. J4 on Serial Nos. 129, 120, 98, 4, 15, 25 and 28.

FET/sm

Floyd E. Thomas
FLOYD E. THOMAS,
Lt. Col., Inf.,
S.C.A.O., Trapani.

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HEADQUARTERS
ARABIAN MILITARY GOVERNMENT

AMG/4083/1.

9th November, 1943

Subject:- Review of Summary and Superior Court Cases.

TO : RCIO (thru' RCAG) Region II.

Reference your memorandum of 25th October, 1943.

1. For the time being, the reviewing of cases under Proclamation 4, Article VII, sections 1 and 3 will be carried out at A.S. Hq. in the interests of uniformity. Colonel Jollock, the Chief Judicial Officer has been appointed reviewing officer under Section 3 and cases received by him can be reviewed without delay. Details of the procedure to be adopted on review are set out in the memorandum dated 8th November, 1943 and entitled "Review of Court Cases" (ref. AMG/4083/1) which should shortly reach you. Responsibility for seeing that cases are sent up promptly for review rests, of course, with the Region concerned.
2. Records of trials under section 2 should now be handled by the Regional Chief Legal Officer. This should assist him in surveying the judicial work of his region and in achieving uniformity of sentences in his region.

Wm. G. CHAMBERLAIN
Lieut. Col. V.A.
Chief Legal Officer.

W

b

Subject: Review of Summary and Superior Court Cases,
Region 2

25 Oct. 49 ⁹⁰⁶

To: Chief Staff Officer
AMG H.Q., Palermo

4083/2
5

Attention Chief Legal Officer

1. It is felt that the present procedure for the review of decisions of the Summary and Superior Courts in Region 2 is likely to prove itself increasingly defective. Delay in the review of cases decided here may well be so inevitable, if it is carried out in Palermo, as to make the right of review illusory.

2. One remedy for this situation, in so far as Summary Courts are concerned, has been suggested: that the S.C.A.O. of each Province should be empowered to review finally the the decisions of Summary Courts in his Province. The advantage of such a method of review is that reasonably prompt consideration of all cases would be assured. The disadvantage, that the Legal Section would lose the final responsibility in matters which are principally its concern, is obvious.

3. Another remedy might be applied to the review both of Summary and Superior Court decisions, or to the review of either one of those classes of cases. That would be to give the Regional Legal Officer the power of review. The advantages in this procedure would be that review could presumably be completed with reasonable speed and that a Judicial Officer would be making the final decision.

4. It would be appreciated if this problem could be given early attention, for now that there is a Legal Officer in each Province of the Region the number of cases to be tried in Military Courts is likely substantially to increase.

*Seen
Action made this date
H. De*

HEADQUARTERS
3 NOV 1943
4083
AMGOT

G. W. McCaffrey
Lt. Col., R.C.M.O., Region 2

x

SUBJECT : Appeals

C.L.O.
AMGOT H.Q.
PALERMO

4083

The enclosed petition from CARBONE Giovanni, asking that the sentence of three months' imprisonment passed on him by a Summary Court at Reggio may be altered to fine, or alternatively that he may be transferred to Messina to serve his sentence is forwarded for disposal in accordance with Proc 4 art VII, together with the Court record.

REGGIO
30 OCT.43.

Giuseppe M... Capt
for MAJOR R.A.
C.A.O. REGGIO PROVINCE

Case returned by 2 - 9/11/43

Subject: Trial of Falbo, Sacco, and Barbaro ()

25 Oct. 48

To: Chief Judicial Officer
ANG H.Q.
Palermo

1. The enclosed record is full of irregularities and the propriety of the proceedings is certainly not free from doubt. Yet it is felt that no steps to re-open the matter need be taken.

Wm L. W. How

Major, AVS, R.L.O., Region 2

No action taken

Henry Pelloni *ll*
8 Nov 43.

Case No 8

4083.
Case returned Region 2 - 9/10/43

File
 Subject: Trial of Poppatola, Francesco

24 Oct. 43

To: Chief Judicial Officer
 AMG H.Q.
 Palermo

1. Enclosed herewith is the record in the above case recently heard by a Summary Military Court in Region 2.

2. The case involves one serious question which deserves review. Is a Summary Military Court within its legitimate powers when it adds to a one year term of imprisonment a fine which it knows, or believes, that the accused cannot pay and which, when converted into a term of imprisonment, will mean that the accused will remain in jail for over two years? The enclosed letter from the L.O. for Calabria makes his position clear. The R.L.O. finds himself in disagreement with that view and he suggests that the matter should be considered at AMG H.Q.

3. In dealing with this problem the R.L.O. has assumed that he possesses no authority to review or alter the judgments of Military Courts in this Region and that the record in each case should be sent on to H.Q. for examination. Unless this assumption is mistaken the practice will be continued in the future.

W. S. J. W. Howe

Major, A'S, R.L.O., Region 2

Case No 7/Reg II

4083

*Case reviewed & referred
 to Reg II - 9/1/43*

Subject: Superior Court Cases, Reggio-Calabria
 To: Chief Judicial Officer
 ANGOT HQ., Palermo

483

①

1. Enclosed herewith are the records in six cases recently heard by Captain Dreyfus, L.O. for the Province of Reggio, sitting as Superior Court.

2. Upon the supposition that the charges were of some considerable seriousness, as the C.A.P.O. had originally believed them to be, the R.L.O. had ordered this group of cases to be heard by Capt. Dreyfus as a Superior Court in the first instance without there being a Summary Court hearing. It had even been supposed that some of the defendants would be shown to be armed conspirators against the Allies, and a General Military Court had been established by order of General Rennell to deal promptly with that group of cases. The evidence in the Superior Court indicates that no charges were serious, and accordingly all cases have been disposed of, and at the moment there are no cases pending for determination by the General Court.

Leonard W. Howe

Major, AUS, R.L.O., Region 2

13 October 1943

Cases Nos 1-6

*All cases reviewed
 & returned Reg 2 - 9/10/43*

Filing
 HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LEGAL SUB-COMMISSION
 APO 512

4983/1

GP/rlp

14 DECEMBER 1943

SUBJECT: Review of Military Court Cases.
 Your memo of 9 Dec. 1943, Ref. 2201/6/10.

TO : RCIO, Region 2.

1. Your para 2. The decision of the RCIO, where the sentence does not exceed two years or a fine of 50,000 lire, need not wait 30 days merely on the off chance of a petition being presented. If a petition is presented, the case can be reviewed at these HQ in the light of any decision already taken by the RCIO.

2. Your para 3. Informal requests for relief need not be treated as "appeals" unless it is clear that some substantial issue is raised, but the right of petition given to "any person convicted" must extend to petitions ^{made} solely on the ground of clemency provided they are filed by the person convicted or by some person on his behalf.

3. Your para 4. A petition filed after 30 days should be looked at by the RCIO to see whether or not it raises any substantial issue. If it does, it should be treated as though it were properly filed. If it does not, it should be rejected as being out of time.

GEORGE POLLOCK,
 Colonel,
 Chief Judicial Officer.

AUS HQ

Region Two

Ref: 2201/5/10

9 December 1943

Subject: Review of Military Court CasesTo: Chief Judicial Officer
Legal Sub-Commission
HQ AUS

4083/1

1. Troublesome questions concerning the interpretation of Proclamation 4, Article 7, and the 3rd paragraph of the HQ instruction of 30 Nov. on the powers of RCIO's have arisen in Region 2.
2. If the sentence of the Superior Court does not exceed two years imprisonment or a fine of L 50,000 must the decision on review by the RCIO wait thirty days on the chance that the defendant may file a petition for review which would carry the case to the Chief Judicial Officer? If that delay is necessary it may well mean in fact a delay of some 36 or 40 days, for it frequently takes as long as 10 days for communications from outlying Provinces to reach Regional HQ. If this delay is necessary it may well mean that the right to review light sentences of imprisonment is illusory.
3. Are petitions for clemency and such informal requests for relief to be treated as "appeals" within the meaning of Proclamation 4 when they are filed by members of the prisoner's family? Such documents are far more common than petitions which seek review on the ground that some substantial error of law was committed by the trial court.
4. If a document which satisfies all technical requirements of an appeal is filed after thirty days would it be advisable for the RCIO to review the decision, or should he forward the record to the Judicial Officer at HQ AUS?

Mark DeW. HoweMark DeW. Howe, Major, AUS,
RCIO, Region 2

2023