

0 2 3 2

Declassified E.O. 12356 Section 3.3/NND

No.

785016

ACC

10000/142/574
(VOL. 7)

REVI
AUG.

42/574

)

REVIEW OF ALLIED MILITARY COURT CASES, CORRESPONDENCE
AUG. 1944

736	1 Aug 44	F/ PLO Salerno	Sabino Domenico & al.
738	1 Aug. 44	T/ RLO Reg. 3	Morgatino Carmine et al
739	1 Aug. 44	F/ A/RLO Reg. 3	Transmission of cases
740	3 Aug. 44	F/ RLO Reg. 5	Petitions for review
741	3 Aug. 44	F/ PLO Avellino	Barbone & Romano
742	4 Aug. 44	F/ RLO Reg. 3	Pizzano Aldo
743...			
744...	31 July 44	From PLO Chiari	Officer's wine report.
745	4 Aug. 44	F/ WOJO HQ. reg. 5 AMG	Officer's wine.
746	4 Aug. 44	T/ RLO Reg. 4	Lamberti Guido
747	5 Aug. 44	F/ RLO Reg. 3	transmission of cases
748	5 Aug. 44	F/ RLO Reg. 4	Bentivegna Rosario
749	2 Aug. 44	F/ HQ. 2675 reg.	Report of investigation
750	5 Aug. 44	T/ rlo reg. 4	Report of investigation
751	6 Aug. 44	F/ RLO Reg. 4	Bentivegna Rosario
752	7 Aug. 44	T/ RLO Reg. 3	D'Ambriceto
753	8 Aug. 44	F/ RLO Reg. 3	transmission of cases
754	8 Aug. 44	T/ RLO Reg. 3	Longo Luigi
755	9 Aug. 44	T/ RLO Reg. 3	Sabino Dom. et al
756	10 Aug. 44	F/ ex. off. G-5	forwarding of papers
757	10 Aug. 44	T/ RLO Reg. 3	Morasco Mezzarano
758	11 Aug. 44	F/ RLO Reg. 3	Carillo Luca et al
759	12 Aug. 44	T/ RLO Reg. 3	Petitions for review
760	12 Aug. 44	F/ Capt. blacklock	Judges report on Iorio et al
761	12 Aug. 44	F/ RLO Reg. 3	Report on Iorio & Manna
762	12 Aug. 44	T/ RLO 3	transmission of cases
763	13 Aug. 44	F/ RLO Reg. 4	Orsi Ferd. & Di Bello Luigi
765	14 Aug. 44	T/ A/Chief commissioner	Petition for review
766	14 Aug. 44	F/ RLO Reg. 3	Bentivegna Rosario
767	14 Aug. 44	T/ RLO Reg. 3	Recchione Gennaro et al
768	14 Aug. 44	T/ RLO Reg. IV.	Gereilli Bruno
769	14 Aug. 44	T/ reg. I	Bentivegna Rosario
770	14 Aug. 44	F/ RLO Reg. 4	scarpato natate
771	15 Aug. 44	F/ RLO Reg. 3	pending as long as cases
772	16 Aug. 44	F/ RLO Reg. 4	transmission of cases
773	17 Aug. 44	F/ RLO Reg. 3	Bentivegna Rosario
774	17 Aug. 44	F/ RLO Reg. 3	transmission of cases
775	17 Aug. 44	F/ RLO Reg. 3	cases for review
776	17 Aug. 44	T/ RLO Reg. 3	Recchione Gennaro et al
778	17 Aug. 44	T/ RLO Reg. 3	Longo Luigi
779	18 Aug. 44	T/ RLO Reg. 5	Casagrande (atty)
780	19 Aug. 44	F/ RLO Reg. 3	Petitions for review
781	19 Aug. 44	T/ rel reg. 4	Sallustia & Misella
782	19 Aug. 44	T/ RLO Reg. 3	Interlunghi Vittorio et al
783	20 Aug. 44	F/ PLO foglia	Nocera & Sarno
784	20 Aug. 44	F/ PLO foglia	summary et. cases
			Caccavale & fania
			Decid on on review of French

R5/511/14

R5/511/14

Ca/Legal/222

R5/504/12

ET:2V

507.5

1/1007

(transferred to 4083/29)

G.5 311.13

R/5511/14

(bocconoci andrea petition for review

1/1007

1/C/1000

R5/511/14/C

R5/511/14

R5/19/2005

F/23065

763	12 aug. 44	T/ rlo reg. 4	(bocaccci andrea petition for review
765	10 aug. 44	T/ A/Chief commissioner	Bentivegna rosario
766	13 aug. 44	T/ rlo reg. 3	Recchione Gennaro et al
767	14 aug. 44	T/ rlo reg. 3	Gerelli bruno
768	14 aug. 44	T/ rlo reg. 4v.	Bentivegna rosario
769	14 aug. 44	T/ reg. 1	excepto natele
770	14 aug. 44	T/ rlo reg. 4	pending ec longie cases
771	16 aug. 44	T/ rlo reg. 3	transmission of cases
772	16 aug. 44	T/ rlo reg. 4	Bentivegna rosario
773	17 aug. 44	T/ rlo reg. 3	transmission of cases
774	17 aug. 44	T/ rlo reg. 5	cases for review
775	17 aug. 44	T/ rlo reg. 3	Recchione Gennaro et al
776	17 aug. 44	T/ rlo reg. 3	Longo luigi
778	17 aug. 44	T/ rlo reg. 3	Cesagrande (atty)
779	18 aug. 44	T/ rlo reg. 5	petitions for review
780	19 aug. 44	T/ rlo reg. 3	Sallustia & Musella
781	19 aug. 44	T/ rei reg. 4	Interlenchi vairo et al
782	19 aug. 44	T/ rlo reg. 3	Nocera & Sarno
783	20 aug. 44	T/ PLO foglia	summary ct. cases
784	20 aug. 44	T/ PLO foglia	Caccavale & fanie
785	23 aug. 44	T/ PLO foglia	Decision on review of Franchone
786	21 aug. 44	T/ rlo reg. 3	Franchone Albert & Giuseppe
788	22 aug. 44	T/ rlo reg. 4	Tizzone Giuseppe
789	22 aug. 44	T/ rlo reg. 5	Stelluti francesco
790	23 aug. 44	T/ rlo reg. 3	Caccavale luigi
791	23 aug. 44	T/ rlo reg. 3	Sallustia & musella
792	23 aug. 44	T/ plo reg. of foglia	transmission of cases
793	23 aug. 44	T/ rlo reg. 3	Giamary ct. records
794	24 aug. 44	T/ rlo reg. 3	Ruotolo Nancey et al
795	24 aug. 44	T/ rlo reg. 3	Cisale Guglielmo
796	24 aug. 44	T/ rlo reg. 3	Records of foglia
797	24 aug. 44	T/ rlo reg. 3	transmission of cases
799	25 aug. 44	T/ rlo reg. 4	Misani Gauris la
800	25 aug. 44	T/ rlo reg. 5	Torre de Passeri
801	25 aug. 44	T/ rlo reg. 3	Ruggiero Raffaele
802	26 aug. 44	Fr. ACC Liaison main HQ. AUL. ACCOL 310	Accident, cesert naples Hiw
803	26 aug. 44	T/ Capt. Kerr Reg. 3	Casizzone raffaele
804	27 aug. 44	T/ rlo reg. 4	Tizzoni Giuseppe
805	28 aug. 44	T/ rlo Southern Region	Casoria Arcangelo et al
806	28 aug. 44	T/ rlo southern reg.	Fiano Giosue
807	28 aug. 44	T/ public safety	Conduct of Agents (ippolito)
808	28 aug. 44	T/ rlo southern reg	Ippolito & bertel
809	28 aug. 44	T/ rlo southern reg.	Ruggiero Raffaele
811	29 aug. 44	T/ rlo Southern reg.	Occhiuzzi vittorio

812	29 aug. 44	T/ RLO southern reg.		
813	29 aug. 44	T/ rlo southern reg.		
814	29 aug. 44	T/ RLO southern reg.		
815	29 aug. 44	T/ rlo reg. 4		
816	29 aug. 44	T/ rlo reg. 5		
817	30 aug. 44	E/ rlo reg. 9		
818	30 aug. 44	E/ rlo southern		
819	30 aug. 44	T/ rlo reg. 4		
820	31 aug. 44	E/ JO reg. 3		
821	31 aug. 44	T/ rlo reg. 5		
822	21 aug 44	F/ PLO Campania	F/P 30647	
823	27 aug 44	F/ PLO FOCERA		
824	28 aug 44	F/ PLO F. 4 Campania	F/P 3068	
825	28 aug 44	F/ Sup. Ct. Ind. So. Reg.		
826	29 aug	F/ PLO Reg. 8.	RvM/19/3008	
827	30 aug	F/ PLO Reg 4	L/1007	
828	31 aug	F/ PLO So. Reg.	L/3031	
829	30 aug	F/ PLO Reg 4	L/1007	

Nocera & sarno
 Papa Giuseppe
 Piscitelli Luigi
 Brigido Bruno
 Stelluti Francesco
 Caccavale Luigi
 in mission of cases
 Buffarele Franco
 in mission of case
 Court records of Campobasso
 and foglia.
 DeBenedictis - Marcante - Pannofino
 Summary of case
 De Biasi
 FIARO GROSSE
 CAVALLI - ARAS
 BARBELL - EVGARNO
 BIACCIOLI - OMARO
 Brandi et al
 Piscitelli et al.
 Mangiamano
 Alessandrino

0 2 3 7

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

785016

FROM No. 736

TO No. 829 y ;

✓ 083/1.
R-E-S-T-R-I-C-T-E-D.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

829

L/1007

30 August 1944.

SUBJECT : Re: case MARIGLIANI Alessandro.

TO : Chief Legal Officer, Legal Sub-Commission,
Headquarters, A.C.C.

1. Enclosed herewith record and proceedings in the above mentioned case.

2. Since this is a case which falls within Art. 32, Paragraph b2 of the consolidated instructions for Allied Military courts, the case is forwarded for your attention.

Robert C. Hendrickson

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER

RCH/AC.

Enclosure :-

Record, proceedings and grounds for appeal in above mentioned case.

4083/1

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

828

L/3031

31 August 44

Subject: Case of PISCITELLI Luigi et al.

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

1. Reference is made to your communication ACC/4083/1/L, 29 Aug 44, relative to the above subject.

2. I have this day forwarded the files in the above case to the Chief Legal Officer, Legal Sub-Commission, A.C.C.

3. The records in this office do not disclose that a newly submitted petition has been filed with the Regional Legal Officer, Southern Region as is the custom and practice in all appeals.

L. F. Dawson

L.F. DAWSON,
Lt.Col., G.L.,
Regional Legal Officer.

31

ETK/pv

Returned with files
three mislake

40831 ✓
R-E-S-T-R-I-C-T-E D.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

L/1007

30 August 1944.

SUBJECT : BRANDI Giuseppe et al.
TO : Chief Legal Officer, Legal Sub-Commission,
Headquarters, A.C.C.

1. Enclosed herewith are the record, proceedings and exhibits in the above mentioned case.

2. Since this is a case which falls within Art. 32 Paragraph b2 of the consolidated instructions for Allied Military Courts, the case is forwarded for your attention.


ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

Enclosure :-

Record, proceedings and exhibits in the above mentioned case.

91

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
SECTION VIII

40831
RMH/19/3008

BARBARI EUGENIO
BIACRONI OMERD

29 August 1944

SUBJECT: Case of CRIVELLI AMOS

TO : Chief Legal Officer, H. AGC

1. Herewith please find enclosed file in connection with the above mentioned case, including letter from PLO Grosseto Province dated 23 August 1944.

2. After due deliberation, it has been concluded that the decision requested in the basic communication should be rendered by authority higher than Regional level: issue other than of legal import are collaterally involved. Do you concur?

It is submitted that from the statements in the record, and based on such facts of common knowledge which one may call to his aid in such cases, an acquittal in this case is certain by an Allied Military Government Court, should the accused be brought to trial on a charge of the unlawful taking of human life.

Does the record reveal a prima facie violation of Proclamation 1, Article IV Section 5?

The question raised is an interesting one. Possession of a permit unquestionably is a good defense. But the point arises, is not the lack of a permit an element of the offense which the prosecution must positively prove as well as physical possession of fire-arms? Is an offense committed if an accused in possession of fire-arms, etc., is at all times in possession of a permit?

Under the Provisions of Executive Memorandum 68, the power to grant or revoke a Proclamation or Order is denied Regional Commissioners. By implication, such power is vested exclusively in the Executive Commissioner. The Executive Commissioner has not construed by Proclamation or Order who may issue the permits for the possession of fire-arms, and under what conditions such permits will be issued. It may be argued that until this is done in rounding out the terms of section 5, supra, a Proclamation offense has not been defined with exactness after the pattern requisite in penal offenses under Anglo-American law, or in the alternative, a right of defense guaranteed by the Proclamation is denied a defendant for lack of a yardstick with which it may be measured legally.

Without reservation on such argument, we pass the cases to

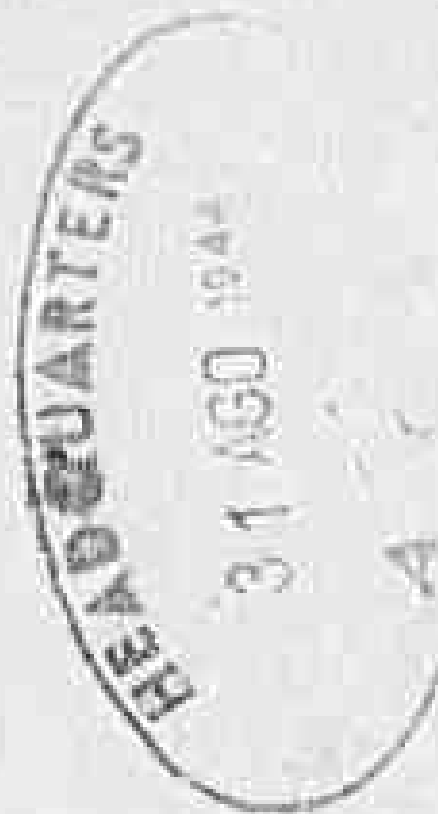
Does the record reveal a prima facie case?
Section 5?

The question raised is an interesting one. Possession of a permit unquestionably is a good defense. But the point arises, is not the lack of a permit an element of the offense which the prosecution must positively prove as well as physical possession of fire-arms? Is an offense committed if an accused in possession of fire-arms, etc., is at all times in possession of a permit?

Under the Provisions of Executive Memorandum 68, the power to issue and revoke a proclamation or order is denied Regional Commissioners or Executive Commissioners in the Executive Commission. By implication, such power is vested exclusively in the Executive Commission. The Executive Commission has not construed by proclamation or order who may issue the permits for the possession of fire-arms, and under what conditions such permits will be issued. It may be argued that until this is done in rounding out the terms of section 5, above, a proclamation offense has not been defined with exactness after the pattern requisite in penal offenses under Anglo-American law, or in the alternative, a right of defense guaranteed by the proclamation is denied a defendant for lack of a yardstick with it may be measured legally.

Without expressing an opinion on such argument, we pass the cases to you for such decision as you may care to render hereunder.

John S. Loebe
Colonel, Infantry
Regional Legal Officer



Rviii/19/3008

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

Legal

Ref 31-8
3028A

ACC/4083/1/L.

/gb.
28 Aug 44

825

SUBJECT: Case of FIANO Giosuè.

TO : R.L.O . Southern Region .

1. Reference Form 11. of enclosed records .
2. In the para dealing with reasons for application a mention is made to "the reasons will be further treated by attorney, Avv. Montella." These papers are not with the record nor have they been received subsequent to reception of record of proceedings.
3. Any light you may throw on the subject will be appreciated.
4. Please return record with requested information.

W. H. Wilmer
RICHARD H. WILMER,
Colonel, C.A.C.
Acting Chief Legal Officer.

1st Ind.

31 August 44

88

4083/1
To: Chief Legal Officer, Legal Sub-Commission, A.C.C.
Rome.

1. The trial judge states that the accused's attorney Angelo Montella, Avellino, has never filed a statement of "the reasons" for the appeal although the matter was called to his attention after the Petition for Review was received.

Delivered for Col. L.F.D.
A.E. GOLD
Captain,
Trial Judge.

Dawson,
Regional
Legal
Officer.

✓ 83/1

✓ 83/1

Ref. F/P. 3068
28th Aug 1944Legal S.C.
1500

SUBJECT: Application for review of sentence.
 TO: Hqs. A.C.C. (Legal Subcommittee).
 FROM: P.L.O., Foggia and Campobasso Provinces.

(824)

Further to my F/P 3067 of 21/8/1944, forwarding record
 in case of De Bonis, Domenico and others.

Herewith application for review of sentence filed by De
 Bonis, Domenico. As President of Court was P.L.O., only comments
 appear on form.



T. F. Byd-Otto

Major, #
 Provincial Legal Officer
 Foggia and Campobasso Provinces

83/1

0 2 4 5

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

785016

*Legal*Ref E/P 3065
27/8/1944

HQ ACC

423

SUBJECT: Summary Court Records.

TO : ~~P.L.O. Region 5 (H.Q. P.G.)~~ H.Q.A.C.C., Legal Sub-Commission.

FROM : P.L.O. Foggia Province.

The following summary court records are forwarded herewith:

<u>DISTRICT</u>	<u>No. of CASE (S)</u>
-----------------	------------------------

S. Severo	1161
Manfredonia	503
Lucera	516 to 518.

At material time this HQs was directly under
HQs.

*TA Ryd-Vin*Provincial Legal Officer
Campobasso and Foggia Province.

85

1 SET 1944

Time in 1600

4013/1

Ref. F/P. 3068
21st Aug. 1944Legal S.C.
1325

SUBJECT: Superior Court Case.
 TO : HQ. ACC, (Legal Sub Commission).
 FROM : P.L.O., Foggia and Campobasso Provinces.

422

1. Forwarded herewith is record in case of:

DE BONIS Domenico
 MERCADANTE Raffaele
 PALLADINO Michele

HEADQUARTERS
 24 AUG 1944
 A. C. C.

2. This case was tried by a Superior Military Court at Lucera on 11 and 12 August 1944, and as at that time this province was directly under your HQS. record is forwarded direct to you for review

3. Trial of this case was actually begun by late P.L.O., Foggia, prior to return of this province to Italian Government, but adjourned part heard owing to absence of certain witnesses.

4. It was retried de novo by a new Court.

5. 1000 lire note A06898162A was examined by Court, but for reasons of convenience was NOT attached as an Exhibit. It has been handed over to Provincial Finance Officer pursuant to Court's order of confiscation.

6. No application for review of sentence has yet been received.

Hold full expung
 of 30 days +

J. A. Byt (Jhr)

Major, J
 Provincial Legal Officer
 Foggia and Campobasso Provinces

4083/1

Ref. F/P. 3068
21st Aug. 1944Legal S.C.
1325

422

SUBJECT: Superior Court Case.
 TO : HQ. ACC, (Legal Sub Commission).
 FROM : P.L.O., Foggia and Campobasso Provinces.

1. Forwarded herewith is record in case of:

DE BONIS Domenico
 MERCADANTE Raffaele
 PALLADINO Michele

HEADQUARTERS
 24 AGO 1944
 A. C. C.

2. This case was tried by a Superior Military Court at Lucera on 11 and 12 August 1944, and as at that time this province was directly under your HQS. record is forwarded direct to you for review

3. Trial of this case was actually begin by late P.L.O., Foggia, prior to return of this province to Italian Government, but adjourned part heard owing to absence of certain witnesses.

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Add full expung
 of 30 days +.

J. A. Ryd- (Jhr)

Major, J
 Provincial Legal Officer
 Foggia and Campobasso Provinces.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

✓ *Center file*
ACC/4083/1/L.

821
/gb.
31 Aug 44.

SUBJECT : Court Records.

TO : Regional Legal Officer (Throu Regional Commissioner)
Region V.

1. Reference your letter R5/511/15 of 24 Aug 44.
2. Region V it seems to me should continue to hold the records of all AMG Court proceedings that took place in the Provinces of CAMPOBASSO and FOGGIA.

RICHARD H. WIMER,
Colonel, CAC,
Chief Legal Officer.

Copy to: RLO Southern Region

820

31 August 1944

MEMORANDUM to Chief Legal Officer, Legal Sub-
Commission, A.C.C., Rome.

1. Perhaps the attached case should have
been send to Region VIII. Probably it was sent
to this office thru error.

E.T. Kerr
E.T. KERR,
Captain,
Judicial Officer.

Sent to Region
8 - Seen by chief clerk 83

fal

HEADQUARTERS
ARMED CONTROL COMMISSION
LOCAL SUB-COMMISSION
APO 304

814
HFC/pc.
30 Aug 44.

ACD/4083/1/1.

SUBJECT : Case of BERNARD FRODO.

TO : Regional Legal Officer, Region IV.

1. The conviction in this case has been quashed, on the grounds that the record shows so many unsatisfactory points (principally the non-availability of 1/Cpl BROWN) that the Court could not properly be satisfied beyond all reasonable doubt as to the guilt or innocence of the accused.

2. It appears that the officer who tried the case has some lurking doubt in his own mind : see his comment on Form 11--

"I feel convinced this accused is guilty. If not, he must know who the guilty person is".

R

82

RICHARD K. SUMER,
Colonel, G.C.,
Chief Legal Officer.

4083/1 ✓

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
APO 394, U.S. Army

918

30 August 1944

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Commis-
sion, A.C.C., Rome.

1. Pursuant to appropriate order I enclose
herewith the Documents listed below relating to
Review of Sentences. In each of these cases the
sentences exceeded 2 yrs.imp. or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
✓3879	Storto Michele et al	Sup.Ct.	1 Aug.44	Appl., Form 8
3930 ✓	Marino Ciro et al	" "	7 8 " 44	Appl., Form 8
3961 ✓	De Santis Immacolata	Avellino	28 July 44	Form 8

For the Regional Commissioner:

ETK/pv

L. F. Dawson
L. F. DAWSON,
Lt.Col., G.L.,
Regional Legal Officer. *By E. T. H. Capt.*

4043/1
HEADQUARTERS REGION IX
ALLIED MILITARY GOVERNMENT
Legal Division
APO 394

817

Ref. No.: R.IX/LE/650

30 August 1944.

SUBJECT : Decision on Review (Caccavale Luigi, Superior Court,
Foggia Province).

TO : Chief Legal Officer, Legal Sub-Commission, Headquarters,
Allied Control Commission, APO 394, U.S. Army.

1. Record of Trial and receipt form in the above case are returned
herewith, as they were apparently forwarded to this Headquarters in error.

William H. Levitt
WILLIAM H. LEVITT
Major, J.A.G.D.
Regional Legal Officer.

2 Incls:
Record of Trial - Caccavale Luigi
Receipt Form.

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

816

ACC/4083/1/L.

/gb.
29 Aug 44.

SUBJECT : Case of STELIUTI Francesco.

TO : Regional Legal Office; Region 5.

1. Return herewith is the record of the proceeding
against STELIUTI Francesco.

2. On review the sentence imposed by the Court
was reduced to 5 years imprisonment.

RICHARD H. WILMER,
Colonel, C.A.C.
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/TH.

ACG/4083/1/L

29 AUG. 44

SUBJECT : Record of Proceedings.

TO : Regional Legal Officer. Region IV.

In my capacity as President of the Court I am forwarding
the record of the proceedings ~~regarding~~ ^{against} BRIGIDO Bruno and
SQUADRILLI Franco.

J. G. H. CAMPBELL
Lt Colonel
Chief Judicial Officer:

78

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 304

/rm.

29 Aug 44

ACC/408 y/1/L.

SUBJECT : Case of PISCITELLI Luigi et al.
TO : Regional Legal Officer southern Region.

1. This H.Q. has need of the record of the proceeding against PISCITELLI Luigi, TAGLIAVINI Tullio and ROSCA Guido, so that a newly submitted petition might be considered.

2. The case was tried in Naples formerly, Region. III

3. Please forward the case, which was sent to you recently.

RH
RICHARD H. WILNER
Colonel, SAC
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/L/L.

/gb.
29 Aug 44.

SUBJECT : Case of PAPA Giuseppe.

TO : Regional Legal Officer - Southern Region.

1. The enclosed petition by PAPA Giuseppe was received here after the case had been reviewed.

2. It discloses no material point which was not raised at the trial and considered on review. It seems to be no more than a repetition of his defence.

3. The decision and sentence of the Court will therefore stand as affirmed.

4. However your attention is drawn particularly to the last paragraph of page 3 of the petition. This allegation seems supported by the medical certificate attached regarding one LAMBIASE viz: "Extensive bruising of the left side of the body - Many bruises all over the body - Blow on the back of the hand with broken bone suspected;"

5. May steps please be taken to initiate investigation with the matter.

le
RICHARD H. WILMER,
Colonel, C.A.C.
Acting Chief Legal Officer.

SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L.

WEB/ap.
29 August 1944.

SUBJECT : Decision on Review.

TO : Regional Legal Officer (thru RC) Southern Region.

1. I sent you recently a decision in the case of ROCERA, convicted of offences in relation to Hemp Control. In this decision I quashed the conviction on the ground that canvas was not covered by the order.

2. I have no doubt that this decision was right, but for reasons of policy the Hemp Control Commission do not desire it made public before the publication of a new law which the Italian Government has in hand on the same subject and which will in fact cover canvas.

3. This law will be passed in a few days. Please therefore hold up publication of the decision on review until this time.

4. No injustice will be done to the accused as I have ordered a new trial on other offences in respect of which he was undoubtedly guilty.

W. E. BEHRENS, Colonel, 75
Acting Deputy Chief Legal Officer.

DOWN GRADED

UNCLASSIFIED

Col. Inf.
Chief Judicial Officer,
for Chief Civil Affairs Officer.

SECRET

4083/10
✓

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

(811)

L-3044

29 August 1944.

Subject : A.M.G. vs. OCCHIUZZI Vittorio.

To : C.L.O., Legal Sub-Commission, A.C.C.

1. I forward the original record and exhibits in the above mentioned case together with an original report thereon by Major ROLFE.

2. In para. 11 of this report Major ROLFE makes a series of suggestions in regard to the ultimate disposal of this case.

3. If it were possible to send Capt. FALK here to complete the matter this would be the course I should recommend.

4. Should this not be possible I shall be glad to have your ruling on the suggested course (b).

5. As the legal staff has now been greatly reduced I am anxious to avoid the necessity of having to try the whole case de novo.

6. I think it too late now to join Porcaro who in any case has absconded and ~~where~~ it may not be possible to arrest for an indefinite time.

76

7. The joinder of this man at this stage would in any event involve the recall of all the witnesses for cross-examination by him which would virtually amount to a trial de novo.

8. I shall be glad to receive your instructions.

For the Regional Commissioner:

L. F. Dawson
L.F. DAWSON,
Lt. Col., G.I.,
Reg. Legal Officer.

LFD/cm

Encl -

1. Record and Exhibits.

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

ACC/4083/1/L

28 Aug. 44

Subject: Case of RUGGIERO Raffaele.

To : Regional Legal Officer, Southern Region.

1. Reference A/Regional Legal Officers' letter, (Region III) 1/3029 dated 25 Aug. 44.
2. The case was submitted for review by the SLO 5th Army with a note that the record after review be sent to Region II. The record was sent to your office after review; receipt acknowledging same was received 24 June 44.
3. The decision on review affirms the sentence of 1 year imprisonment and 25,000 lire fine but voids the provision setting forth additional imprisonment in default of fine.
4. The papers are returned herewith .

lc

RICHARD H. WILMER
Colonel, CAO
Acting Chief Legal Officer.

72

HEADQUARTERS
ALLIED CONTROL COMMISSION
Leg 1 Sub-Commission
APO 394

7 sub
ACC/0001/1/L.

WEL/pa.
28 Aug 44.

SUBJECT : Case of TROJATO Stefano and BERTOL Alberto.
TO : HCO (thru RC) Southern Region.

1. The record in the above case is returned herewith. Please acknowledge receipt.

2. The decision on review is that the conviction and sentences are quashed. The fines, if paid, will be repaid.

3. According to the evidence ^{Premises} ~~property~~ belonging to the two accused (or one of them) was searched and certain property was found there. There is no suggestion that there was anything in the slightest degree improper in the presence of this property. Nevertheless the accused may have been worried by the search for PFC SERPANTONIO told the MF Coy that "the occupants of the house would probably give them some money" - CAPO Giovanni puts the case more bluntly when he says "Then we get the authority to induce them to bribe us".

4. It is hardly necessary to comment on this behaviour on the part of the police but legal officers must in such circumstances not be misled into convicting the accused.

RICHARD H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CORREL COMMISSION
LEGAL SUB-COMMISSION
APO 394

WEB/da.
28 Aug 44.

ACC/4062/1/L.

SUBJECT : Conduct of Agents of P.S.

TO : Public Safety Sub-Commission (thru VP Adm.)

1. This Sub-Commission has received for review the case of DIPOLITO Stefano and BENTIL Alberto, who were tried for bribery in an AMG Superior Court at Naples on 10 July 1944.

2. The evidence was that one CAPO Giovanni, an agent of the P.S. in the Royal Questura, and PFC SERRANTONIO searched the premises of the accused and found some property. There was nothing improper for the part of the accused in the possession of this property. The agents, however, reported the matter and in the words of CAPO "Then we got authority to induce them to bribe us and the following day we took 10000 each".

3. It is fair for CAPO to point out that he is 19 years of age and he was probably acting under the influence of PFC SERRANTONIO. It is felt however, that his conduct was highly reprehensible and the matter is therefore brought to your notice for any action you may wish to take.

RICHARD H. WILSON,
Colonel, CMC,
Acting Chief Legal Officer.

70

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
AFO 394

806

ACC/4083/1/L.

/gb.
28 Aug 44.

SUBJECT: Case of FIANO Giosuè.

TO : R.L.O . Southern Region .

1. Reference Form 11. of enclosed records .
2. In the para dealing with reasons for application a mention is made to "the reasons will be further treated by attorney, Avv. Montella." These papers are not with the record ~~nor~~ have they been received subsequent to reception of record of proceedings.
3. Any light you may throw on the subject will be appreciated.
4. Please return record ~~with~~ requested information.

Wb
RICHARD H. WILMER,
Colonel, C.A.C.
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
AFC 394

AOC/ 4083/4/L

/gb.
28 Aug 44.

SUBJECT : Case of CASORIA Arcangelo - et al.
TO : R.L.O. Southern Region (Throu R.O.)

1. With reference to the above case which was tried in Avellino on 25 July 44.

2. The trial judge in his letter accompanying the papers refers to a petition for review by GIULIANO BERNARDINO. This has not been received at this office.

3. Will you please forward the petition.

4. Any remarks that the trial judge may be able to make on form 11. as to the reasons for imposing such sentences will be of value in reviewing the case.

RS
RICHARD H. WILMER,
Colonel, C.A.C.
Acting Chief Legal Officer.

fil

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

ACC/4083/4/L

27 Aug. 44

Subject: Case of TIZZONI Giuseppe

To : Regional Legal Officer, Region IV.

1. The case of TIZZONI Giuseppe was forwarded for review on 22 Aug with your decision on review that "it is quite clear from the record in this case that the findings and sentence of the Court should be affirmed."

2. You do not however forward the Exhibits in this case which were sent to you by the trial judge on the 4th Aug.

3. Nor do you send any medical certificate, which in the light of the comments made by the trial judge is essential for a proper review of the case.

4. Please therefore

(a) forward the exhibits

(b) obtain (if necessary) and forward the necessary medical certificate.

5. The record is returned for your convenience-please return with the documents mentioned.

RICHARD H. WILMER
Colonel, GAO
Acting Chief Legal Officer.

67

Tel: FILPOT 132 a Dial 496535.

4083/1

902

Subject:- Accident. Caserta - Naples Highway, 19 May 44.To:- HQ.,
Commune of Naples,
A.C.C.

(Cisole D.)

26 AUG 44.From:- A.C.C. Liaison,
Main HQ. A.A.I.

Ref. ACCL/310.

1. Reference previous correspondence (your NCA/302 refers), and confirming telephone conversation (Maj ~~Her~~ Hershenson and Maj Friend James speaking).
2. The witness, No. 18125631 Cpl. Welton T. Martin, is available, and as arranged, will you please telephone Lieut. Wilt, GORDON 201, stating when and where the hearing will take place giving seven days notice.
3. This should be confirmed in writing to the Commanding General,
12 Air Force Service Command,
A.P.O. 650, U.S. Army.
(For attention of Lieut Wilt, officer i/c Personnel).
4. A copy of this sections' letter (Ref. ACCL/300 of 12 Aug 44), endeavouring to trace the witness and which appears to have miscarried, is attached for information.



6E

Major,
A.C.C. Liaison Officer.Copies to:- Commanding General, 12 A.F.S.C., APO 650, U.S. Army.
(Attention Lieut Wilt, officer i/c Personnel)

TEL: MILLOT 1328 DIAL 496535. 4083/1

Subject:- Accident. Caserta - Naples Highway, 19 May 44.

To:- HQ.. 26 AUG 44.
Commune of Naples,
A.C.C.

From:- A.C.C. Liaison,
Main HQ. A.A.I.
Ref. ACCL/310.

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(For attention of Lieut Wilt, officer i/c Personnel).
4. A copy of this sections' letter (Ref. ACCL/300 of 12 Aug 44), endeavouring to trace the witness and which appears to have miscarried, is attached for information.

Friend James ^{bb}
Major,
A.C.C. Liaison officer.

Copies to:- Commanding General, 12 A.F.S.C., APO 650, U.S. Army.

Telephone Lt. Wilt, London 201, stating when and where the hearing will take place giving seven days notice.

3. This should be confirmed in writing to the Commanding General,
12 Air Force Service Command,
A.P.O. 650, U.S. Army.
(For attention of Lieut Wilt, officer i/c Personnel).
4. A copy of this sections' letter (Ref. ACCL/300 of 12 Aug 44), endeavouring to trace the witness and which appears to have miscarried, is attached for information.

Robert James

66

Major,
A.C.C. Liaison Officer.

Copies to:-
 Commanding General, 12 A.F.S.C., APO 650, U.S. Army.
 (Attention Lieut Wilt, officer i/c Personnel).
 HQ. Liaison Section, 12 A.F.S.C., Rome.
 (Attention Major Sylvester).
 Legal Sub Commission, HQ. A.C.C.
 (Attention Lt. Col. Campbell).
 Capt. C.R. Oden, A.C.C. Liaison, Adv. A.A.I.

12

4083/1
HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. Army

401

L-3029

25 August 1944

SUBJECT: Reviews. - Case of RUGGIERO Raffaele.

TO : CLO, Legal Sub-Commission, ACC.

1. Herewith is sent a Form 11 relating to RUGGIERO Raffaele who was tried by AMG 5 Army on 10 May 44.

2. The 5 Army files with his headquarters have been examined and no form 8 has been found.

3. In the absence of form 8 it is difficult to review the case. It will be appreciated if you will ask the SCAG 5 Army whether he can throw any light on the matter.

For the Regional Commissioner:

G. A. Banlet

G. A. BANLET,
Major, G.I.,
Actg Reg Legal Officer.

GAB/mo

Encl-

1. Form 11.

4083/1
SUBJECT : Assault at Torre de Passeri

TO : CLO HQ. ACC

FROM : REGION V

Legal
5/511/14/CH 400

25 August 44

1. Ref. your ACC/4083/1/L dated 20 July 44.

2. This case was submitted to the Procuratore del Regno. He advised that as the medical evidence showed that the injury received by the injured man healed within ten days, prosecution for assault only lies on the complaint of the injured person.

3. De Cock is understood to be a South African deserter and cannot be found.

4. The accused De Francesca Antonio is being interned under an internment order.

For the Regional Commissioner

W. Williams
J. L. WILLIS
Lt. Colonel,
RLO

C.I.O.
See 717.

There is no query

NFA 10/2/44

3130 ABCD

DCLO
Does this answer your query at folio 714?

CONFIDENTIAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/rm

25 Aug. 1944

AGC/4083/1/L

Subject : Case of MISANI Gabriella.

To : Regional Legal Officer, Region IV.

1. On Wed. 23 Aug. I heard proceedings before Major Parlin against MISANI Gabriella. The proceedings will be before you for review, the accused having been convicted and sentenced to 6 months imprisonment and a fine.
2. I state straight away that I arrived after the case had started: that I was listening to the case from the back of the Court: and that I neither saw any of the papers in the case (in particular a statement by the accused) nor could I hear all the evidence given.
3. The proceedings arose out of alleged acceptance by the accused of bribe money while she was working in the Permit Office, in via Tomacelli.
4. I do not know if she was charged with accepting a bribe on one or more occasions: I asked the judge about an hour after the end of the case: he could not then remember.....I doubt if he ever knew.
5. The charge certainly related to one particular occasion when a S.I.S. sergeant sent an agent provocateur to the accused with bank notes which he (the sergeant) had previously marked and of which he had noted the numbers. This sergeant properly gave evidence as to his identification of the notes and how he subsequently recovered them from the accused: but he also gave "evidence" of what occurred when the agent went to the accused - but he (the witness) was not present. Moreover, the agent himself was not called as a witness. It may be that the statement of the accused was

DOWN GRADED
TO
UNCLASSIFIED

Col. Inf.
Chief Judicial Officer,
for Chief Civil Affairs Officer.

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sufficient to justify conviction; but otherwise you may feel some doubt as to the conviction so far as relates to this episode.

6. I also noticed that evidence was given by other witnesses of having paid bribes to the accused on other occasions. If this evidence was to support charges of accepting bribes on those particular occasions, no point arises. If, on the other hand, the accused was only charged with accepting a bribe on one occasion (the occasion of the agent provocateur) such evidence was clearly inadmissible.

7. I am bringing these points to your attention because I feel that you may want to arrange for an early review of this case.

RICHARD H. WILKINSON
Colonel, GAC
Acting Chief Legal Officer.

I.C.

C.T.O.

4083

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

24 August 44

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Com-
mission, A.C.C., Rome.

1. Pursuant to appropriate order I transmit
herewith the Documents listed below relating to
Review of Sentences. In each of these cases the
sentences exceeded 2 yrs.imp. or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
3849	Petricciuolo Francesco	Sup.Ct.1	7 July 44	Appl. Form 8 in this case sent to A.C.C. 8 August 44
3831	Marsico Ernesto	Sup.Ct.7	25 July 44	Appl. Form 8 in this case sent to A.C.C. 8 Aug 44
3850	Papa Giuseppe	Sup.Ct.No.1	24 July 44	Appl., Form 8 in this case sent to A.C.C. 12 Aug 44

For the Regional Commissioner:

G.A. Banlet by E.T. [initials]
G.A. BANLET,
Major, G.L.,
Acting Reg. Legal Officer.

ETK/pv

SUBJECT : Court Records

TO : CLO HQ. ACC

FROM : REGION V

R5/511/15

24 August 44

1. This HQ. holds the records for all AMG Court proceedings in the Provinces of Campobasso and Poggia.
2. Will you please advise if these should now be sent to Southern Region for retention.

For the Regional Commissioner

J. L. Willis

J. L. WILLIS
Lt. Colonel
RLO



50

2965

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpi

795

ACC/4083/1/L

24 Aug. 44

Subject: Case of CISALE Guglielmo.

To : Regional Legal Officer, Region III.

1. The record in this case is exceptionally poor: the procedure at the trial was highly irregular.
2. The petition for review gives rise to the impression that the defence was not well conducted in that all points were not properly ventilated before the Court and all available witnesses were not called, and that a miscarriage of justice may have taken place.
3. The points now raised are all matters of fact and it is difficult on review to assess the credibility of the statements made in the Petition including the Notarial Acts enclosed therein.
4. It is therefore thought that the best solution would be to have a new trial. However, before making such an order, I would like a report whether the material ^{prosecution} witnesses (L/cpl BARNISTER and Cpl. HOLLINGS) would be available.
5. Returned herewith is the record of the case. Will you please re-submit the same with the report.

l.c.

RICHARD H. WILMER
Colonel, CAC
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED OVERSEAS COMMISSION
LEGAL SUB-COMMISSION
AND 394

794
HC/pa.
24 Aug 44.

ACC/14083/1/1.

SUBJECT : Case of EUGENIO Hancey and others.
TO : R/O (thru HC) Region 3 .

1. The record of proceedings in the above case is returned to you, findings and sentences having been affirmed.
2. In considering the petition for review of PLACIDIO Gennaro it was noted that he states that ASPACIUTO Antonio and ALFARO Domenico - the two men in the pony cart - were innocent and that in fact a certain Montuori and the Boselli brothers were the guilty parties.
3. In view of the very full identification made by the soldier Rev. Harrison and by 1/Cpl Lake and in view of the fact that ASPACIUTO and ALFARO were arrested at the place and at the time arranged for the "pay-off" there can be no question of their complicity in the offence.
4. However, the degree of such complicity depends on the truth or otherwise of the allegations contained in the petition of PLACIDIO. If such allegations are true or partly true, ASPACIUTO and ALFARO may have been no more than agents or runners for some principle, in which case some mitigation of penalty might be allowed.
5. It is therefore necessary to know the results of the police action taken on the information supplied by the allegations of PLACIDIO before deciding whether any such mitigation of penalty is warranted.

12.
RICHARD H. WILDER,
Colonel, SAC,
Acting Chief Legal Officer.

58

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl
793

ACC/4083/1/L

23 Aug. 44

Subject: Summary Court Records.

To : Provincial Legal Officer, Reggio Province.

Returned herewith are the following court records forwarded to this officer under your letter F/P 3065 dated 20 Aug. 44:

CERIGNOLA District
LUCERA District

Cases 1497 to 1507
Cases 513 to 515.

WJF
RICHARD H. WILMER
Colonel, GAO
Acting Chief Legal Officer.

4083/1

Legal

792

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

23 August 1944

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Com-
mission, A.C.C. ROME.

1. Pursuant to appropriate order I
enclose herewith the documents listed below
relating to Review of Sentences. In this case
the sentence exceeded 2 yrs.imp.

Legal File No.	Name	Court	Date of Trial	Docu- ment
3932	Cesarano Carmine	Sup.Ct.No.1	10 Aug 44	Appl., Form 8

For the Regional Commissioner:

ETK/pv



G.A. Bamlet By *E. T. J.*
G.A. BAMLET,
Major, G.L., 56
Acting Reg. Legal Officer

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/ 4083/1/L.

/gb.
23 AUG 44.

SUBJECT: CASE OF SALLUSTRA GAETANO & MUSELLA CONCETTA.
TO : R.L.O. REGION 8 (THRU R.C.)

1. Reference your RVIII/19/2005 dated 19 Aug 44. This Sub-Commission agrees with your remarks in regard to the above case.

2. It will be noted that Article 2 Section 8 Consolidated Instructions is not merely advisory but disqualifies categorically certain officers from sitting on any Allied Military Court.

3. Although Capt GORDON cannot be considered as coming within category 1, i.e. a Public Safety Officer acting as such, since he was acting as a C.A.O. nor within category 2, i.e. an officer who has taken part in the investigation of any case to be heard before the Court, since there was no investigation, ~~but~~ there is no doubt that he does come within category 3 i.e. any officer who may be prejudiced by personal knowledge of the facts or otherwise.

4. Therefore, since Capt. GORDON was disqualified from sitting on the Court, there was no trial and the accused was never in fact in jeopardy.

5. The proceedings will be annulled and a new trial ordered before another judge.

1C.

55

RICHARD H. WILMER,
Colonel C.AC.
Acting Chief Legal Officer.

4083/11

790

HEADQUARTERS REGION IX
ALLIED MILITARY GOVERNMENT
Legal Division
APO 394

Ref. No.: R.IX/LE/100.

23 August 1944.

SUBJECT: Petition for Review by Caccavale Luigi.

TO : Acting C.L.O., Legal Sub-Commission, Headquarters, A.C.C., APO 394.

1. Reference letter from P.L.O., Foggia Province to R.L.O., Region 9, 20 August 1944, F/P.3068, copy of which was sent to you.
2. Forwarded herewith is Form No. 11 endorsed with comments of trial judge, and record of trial in the above case.



WILLIAM H. LEVITT
Major, J.A.G.D.
DRLO, Region IX.

2 Incls:
Form No. 11.
Record of Trial.

Copy to: P.L.O., Foggia Province.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

TO CLO HQ ACC
FROM HQ REGION V AMG/ACC
SUBJECT Case of Stelluti Francesco
REF. 35/511/14F

22 August 44

1. Herewith Superior Court case of subject for review.
2. President of Court is not available for comments on petition for Review, however, no new points are raised which have not been covered by comments of Court.

For the Regional Commissioner

File enclosed
AMT/na

J. L. WIDMIS
Lt. Colonel,
RLO

by A. R. TROCELL
Lt. Colonel,
DMLO

2715

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4

4083/12 Legal

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R-E-S-T-R-I-C-T-E-D.

4683/1
✓

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

0-4076
788

L/1017

22 August 1944.

SUBJECT ; Re. case TIZZONI GIUSEPPE

TO : Chief Legal Officer,
Legal Sub-Commission, Headquarters, A.C.C.

1. Enclosed herewith record and proceedings
of the above mentioned case.

2. Since this is a case which falls within
Art. 32, Paragraph b2 of the consolidated instructions for Al-
lied Military Courts, the case is forwarded for your attention.

RCH/AC.

Robert C. Hendrickson
ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

ENCLOSURE : Record and proceedings Re: TIZZONI GIUSEPPE.

52

DOWN GRADED
TO
UNCLASSIFIED

Col. Inf.
Chief Judicial Officer,
for Chief Civil Affairs Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ACC/4083/1/L

WEB/ap
21 Aug 44

SUBJECT : Decision on Review.

TO : Regional Legal Officer (thru RC) Region 3

1. The record in the case of BOVI Luisa, FRANCHONE^{NYR} Alberto, and FRANCHONE^{NYR} Giuseppe, tried at Prattamaggiore on 8 and 10 July 1944 is returned herewith. Please acknowledge receipt.

2. The court had no jurisdiction to try any of the charges originally preferred against any of the accused.

3. At the conclusion of the whole evidence the court endeavoured to amend the charges so as to bring the same facts within the jurisdiction of an AMG court attempting to transfer the scene of the crime to Naples. This was really an attempt, ^{for obvious reasons} to obtain by indirect means a jurisdiction which does not directly exist.

4. Moreover it should be pointed out that none of the false statements alleged was in fact made to a member of the Allied Forces.

Even if Proc 2, Art 2, Para 38 can be extended in Military Government territory to cover a statement made to an Italian civilian who is an agent of a member of the Allied Forces it certainly cannot be extended to cover a statement made to an Italian civilian who, so far as Italian Government territory is concerned, is only working with the advice of the Allied member of A.C.C.

5. The decision on review is therefore :-

BOVI Luisa - Conviction and sentence quashed.
FRANCHONE^{NYR} Alberto and FRANCHONE^{NYR} Giuseppe - Conviction and sentence annulled : accused to be handed over to Italian authorities for investigation and trial by them in respect of non disclosure of movement of hemp or hemp products.

6. A certificate is enclosed (in duplicate) for forwarding to the appropriate Italian court.

W. E. BEHRENS, Colonel,
Acting Deputy Chief Legal Officer.

NOTIFICATION OF DECISION ON REVIEW - CASE OF FRANCHONE^{mm} Alberto
and FRANCHONE Giuseppe.

1. FRANCHONE Alberto and FRANCHONE^{mm} Giuseppe were charged before an AMG Court, sitting at FRATTAMACCIORE on 8 and 10 July 1944 with two charges :-
 - (a) Possession of undeclared hemp products, contrary to Art. 1 of the AMG order dated 7 Jan 1944, for the control of hemp products; and
 - (b) Transportation of hemp contrary to Art. 4 of the said Order.
2. At the trial the Court found that it had no jurisdiction to try these charges, which were therefore abandoned. The Court amended the charges and substituted the two following charges :-
 - (a) Violation of AMG Proclamation 2 Art. II Para. 38 by filing false statements on 20 Feb and 15 Mar 1944 of the amounts of hemp products then in their possession; and
 - (b) Violation of AMG Proclamation 2 Art. III Section 1 by conspiring together to file these false statements.
3. The Court convicted both accused on both charges.
4. The accused filed a petition for review, asking among other things relief for a new trial on the ground that the original court had no jurisdiction.
5. I, Colonel W. E. Behrens, an officer duly authorized by the Acting Chief Commissioner of Allied Control Commission to review petitions, am of opinion that the amended charges referred in substance to the same offences as the original charges. I am of opinion, without considering the evidence upon the merits of the case, that the court had no jurisdiction to try the offences charged. I therefore annul the trial and order that the matter, as requested by the accused through their advocates, be referred to the Italian Courts for investigation and trial by them.

W. E. BEHRENS.
Colonel,
for Acting Chief Commissioner.

20 Aug 44.

Ref. F/P. 3068
20th Aug. 944

Copy to:
Legal Subcommittee,
Hqs., A C C.
R.L.O., Region 5, AMG.

SUBJECT: Applications for review of
FANIA Pasquale and CACCAVALE Luigi.
TO: R.L.O., Region 9 (for attention Major
FROM: P.L.O., Foggia W.H. Levit).
and Campobasso Provinces.

1. Forwarded herewith are applications for review of sentence by FANIA Pasquale and CACCAVALE Luigi, who were tried by Major W.H. Levit when P.L.O. Foggia Province.
2. Records in each case are also attached, and it is suggested that Major Levit add his comments as trial Judge, and forward papers direct to R.L.O., Region 5 in case of FANIA and Legal Sub Commission ACC in case of CACCAVALE for review.
3. At the time of trial of FANIA this Hqs. was under administration Region 5, and at the time of trial of CACCAVALE was directly under Hqs. A C C.



A. Rapt-Whi
Major, 4
Provincial Legal Officer
Foggia and Campobasso Prov.s

SUBJECT: Summary Court Records.

TO: ~~Provincial Legal Officer (P.L.O.)~~ Hqs A.C.C. (Legal Sub-Commission)

FROM: P.L.O. Foggia Province.

Regal
Ref F/P 3065

20/8, 1944

The following summary court records are forwarded herewith:

DISTRICT

No. of CASE (S)

CERIGNOLA
LUCERA

1497 to 1507
513 to 515

In accordance with verbal direction of C.L.O.,
forwarded to you Hqs as at date of trial
this Province was directly under you Hqs. 41

Return
all
to For. Prov.

JA Byd- (for signature)
Provincial Legal Officer
Foggia Province and Cam-
pobasso Provinces.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

WEB/pa.
19 Aug 44.

ACC/4083/1/1.

SUBJECT : Decision on review.

TO : RLC (thru RC) Region 3 .

1. The record in the case of NOCERA Ferdinando and SARNO Giovanni is returned herewith. The trial of this case was most unsatisfactory and the record is thoroughly bad. The judge awarded no separate punishments for the two charges on which he convicted the accused.

2. There is no evidence to support the conviction of SARNO on either charge. The conviction and sentence are quashed, and the fine, if paid, will be repaid.

3. In the case of NOCERA :-

- (a) the conviction for moving the hemp is quashed as no violation of the order was committed;
- (b) the conviction for non declaration of the canvas is quashed, as it is considered that canvas is not within the terms of the order;
- (c) the case of non declaration of the remainder of the hemp was not properly tried.

4. There will be a new trial, before a different judge, of NOCERA limited to the charge of non declaration of the raw hemp and hemp products. NOCERA should be advised that the document referred to as Exhibit A, even if admitted in evidence, is of little value unless considerably amplified. He should be warned that if he wishes to raise a substantial defence on this issue proper evidence must be available at the new trial.

RICHARD H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
ABO 394

/jpl

781

AOC/4083/1/L

19 Aug. 44

Subject: Case of INTERLENGHI Pietro et al.

To : Regional Legal Officer, Region IV.

1. The attached papers relating to proposed proceedings against INTERLENGHI Pietro alia DI SANCTIS Renato were sent by CIC to this HQ in error.

2. While here, they have been read and it is the opinion of this Sub-Commission that CIC request for trial by an AM Court should be complied with.

R.C.

RICHARD H. WILDER
Colonel, CAC
Acting Chief Legal Officer

~~Copy to HQ 426th CIG Det.~~
~~ABO 794~~

Enc: Documents in Re INTERLENGHI
Pietro et al.

45

HEAD QUARTERS
ALLIED MILITARY GOVERNMENT
REGION VIII

Legal
1283
1770

REGION VIII LEGAL OFFICE NO. 37

19 August 1944

RVIII/19/

SUBJECT: Military Courts Cases of SILUSTRA GAETANO and
PUSELLA CONCETTA.

TO: Chief Legal Officer, HQ AGC (attention: Judicial Officer)

1. The record of trial in the above styled Cases and the comments of Provincial Legal Officer, are attached hereto. The Cases arose in Territory then and now under 5th Army Control.

2. It is the opinion of the Regional Legal Officer that while admittedly acting as a Police Officer Captain Gordon nevertheless was disqualified to sit as a summary court by reason of article 2, section 3, Consolidated Instructions, and ~~by reason of~~, the alleged trial, has failed in its intended legal effect, ~~and~~ the sentence is declared for naught.

3. Having entered such decision, can the Regional Legal Officer direct that the case be tried de novo? ~~It~~ the disqualifications are jurisdictional, jeopardy has not attached. We have not been able to discover the answer, and request advice thereon, for present and future guidance.

4. It is desired that the case records be returned to this office.

66

HEADQUARTERS

21 AUG 1944

A. C. C.

John K. Huber

was disqualified to sit as a summary court, the alleged section 3, Consolidated Instructions, And ~~by the court~~, the sentence is declared trial, has failed in its intended legal effect, ~~and~~ the sentence is declared for naught.

3. Having entered such decision, can the Regional Legal Officer direct that the case be tried ~~de novo~~? If the disqualifications are jurisdictional, jeopardy has not attached. We have not be able to discover the answer, and request advice thereon, for present and future guidance.

4. It is desired that the case records be returned to this office.

44

HEADQUARTERS
21 AUG 1944
A. C. C.

John K. J. J.
JOHN K. J. J.
Colonel, Infantry
Regional Legal Officer

SUBJECT : Petitions for Review.

TO : CLO HQ. ACC

FROM : REGION V

4083/1

Legal
RTI
1101
P5/511/14

18 August 44

1. Herewith

Letter from PLO CHIETI Province
Forms 8 & 11 for MARCHIONNO Camillo
ALBERTINELLI Nicola
RUZZI Cristofaro
Form 8 in respect of the trial of DI GIACOMO Vincenzo

2. There appears to be sufficient evidence to support the conviction. I recommended that the convictions and sentences be affirmed.

For the Regional Commissioner

J. L. Willis

J. L. WILLIS
Lt. Colonel,
PLO

43

2320

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/gb.

17 Aug 44.

ACC/4002/5/L

SUBJECT: Communication of decisions on Review.

TO : Regional Legal Officer, Region III.

1. I have, this morning, had a visit by one AVV. Guido CASAGRANDE of Naples, who assured me that the day before yesterday he called at your H.Q. to ask the result of petitions for Review in three cases in which he was professionally engaged. He saw Capt. KERR who referred him to your girl clerk. This clerk told him that in none of these cases had a Decision on Review had been received. This was untrue as in all 3 cases the decision on review had been received at your H.Q. and receipt thereof acknowledged by your H.Q. to us.

The following are the particulars:-

NAME OF CASE	DATE RECORD RECEIVED	DATE REVIEWED	RECORD DISPATCHED	DECISION ACK'D/ BY H.Q. REG 3
CUNCIO GIORGIO				
ADRAINIO UMBERTO	26 June	26 June	27 June	28 June
D'URSO ANTONIO	16 July	31 July	1 Aug	4 Aug
et al				
TODISCO CARMINE	23 July	10 Aug	10 Aug	14 Aug.
et al				

CUNCIO GIORGIO				
ADRAINIO UMBERTO	26 June	26 June	27 June	28 June
D'URSO ANTONIO	16 July	31 July	1 Aug	4 Aug
et al				
TODISCO CARMINE	23 July	10 Aug	10 Aug	14 Aug.
et al				

2. Obviously, if this is going on, the avvocati of Naples must be forming an impression that we are unduly dilatory: and therefore I bring it to your attention.

- 2 -

177

3. In conversation, the same Avvocato made the general remark that, in Naples, it is very difficult for an Avvocato to find out the result of a Petition for Review, the Decision being only communicated to the prisoner. I do not know if there is any justification for this comment: if you think that there is, perhaps you could devise some scheme for listing decisions on review in some place where they could be seen by Avvocati.

12

RICHARD H. WILMER
Colonel, CAC
Acting Chief Legal Officer.

Copy to 4083/1/L File.

41

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

776

ACC/4083/1/L

17 Aug. 44

Subject: Case of LONG Luigi

To : Regional Legal Officer, Region III.

1. Reference this H.Q.'s letters

4083/1/L of 29 Apr. 44
4083/1/L of 3 June 44
4083/1/L of 18 June 44
4083/1/L of 12 July 44
4083/1/L of 24 July 44
4083/1/L of 8 Aug. 44.

2. I attach a letter from P.L.O., Rome Province addressed to the C.L.O.

3. No additional action is required since the decision on Review has been communicated to your H. Q. on 8 Aug. 44 - ACC/4083/1/L.

4. The record of the case is returned herewith.

/C.

RICHARD E. WILMER
Colonel, CAC

Acting Chief Legal Officer.

Enc: 1 Record.

••

40

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jdl

775

17 Aug. 44

ACC/4083/1/L

Subject: Case of RECCHIONE Gennaro et al.

To : Regional Legal Officer, Region III.

1. The supplemental petition on behalf of the above mentioned accused has been received.

2. The petition discloses no ground for varying the sentence as affirmed.

3. The document is returned herewith.

I.C.

RICHARD H. WILSON
Colonel, CAC

Acting Chief Legal Officer.

End: 1. petition.

39

SUBJECT : Petitions
TO : CLO Hq. ACC
FROM : HQ REGION V

4083/1
✓Legal S.C. 727
R5/511/14/C
Aug. 17th
A

1. As this case arose in 8th Army area, and the original appeals were affirmed by Hq. A.C.C., the petition for leniency is forwarded to you.
2. It will be observed that of the 21 petitioners, 8 appear to have the same surnames as those of some of the accused.
3. Enclosed herewith are
 Petition for leniency
 Original Form 11.

I am unable to forward Form 8, as this was not handed over by 8th Army.

For the Regional Commissioner

J. L. Willis
J. L. WILLIS
Lt. Colonel,
RLO



38

2195

4083/1
V

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

773

17 August 44

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Com-
mission, A.C.C., Rome.

1. Pursuant to appropriate order I
enclose herewith the documents listed below
relating to Review of Sentences. In each of
these cases the sentences exceeded 2 yrs imp.
or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
-------------------	------	-------	------------------	---------------

✓ 3831 Di Salle Attilio Sup.Ct. 28 July 44 Appl.
Form 8 in this case sent to A.C.C. 8 Aug 44.

✓ 3849 Apasciuto Antonio Sup.Ct. 1 7 July 44 Appl.
Form 8 in this case sent to A.C.C. 8 Aug. 44.

For the Regional Commissioner:

LEGAL SUB-COMMISSION	
CLO	
CCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

ETK/pw

G.A. Bamlet By E.T.F.
G.A. BAMLET,
Major, G.L.,
Acting Reg. Legal Officer.

R-E-S-T-R-I-C-T-E-D
CONFIDENTIAL

4083/1
Hale
HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
REGION IV.- LEGAL DIVISION
A.P.O. 394

1772

L/C/1000

16 August 1944.

SUBJECT : Case of BENTIVEGNA ROSARIOTO : Chief Legal Officer, Legal Sub-Commission, Hdqs.
ALLIED CONTROL COMMISSION

1. Reference your letter ACC/4083/1/L dated
14 August 1944, subject as above.

2. Receipt is acknowledged of your decision, re-
cordand proceedings in the case of BENTIVEGNA ROSARIO.

RCH/AC.

Robert C. Hendrickson
ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

DOWN GRADED
TO
UNCLASSIFIED

Col. Inf.
Chief Justice Officer
for Chief Civil Affairs Officer.

10

36

CONFIDENTIAL

4083/1.
✓

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

Legal S.C.

667 (771)

16 August 44

Subject: Transmission of Enclosed Documents relating
to Review of Sentences.

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

1. Pursuant to appropriate order I enclose here-
with the documents listed below relating to Review of
Sentences. In each of these cases the sentences exceeded 2 yrs
or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
✓ 3912	Piano Giosuè et al	Avellino	29 July 44	Appl., Form 8
✓ 3885	Acampora Luigi	Sup.Ct.No.5 12	" 44	Appl., Form 8 in this case sent to A.C.C. 8 August 44
✓ 3913	Colorito Antonio	Sup.Ct.No.5	15 July 44	Form 8

For the Regional Commissioner:

ETK/pv

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Relation Section	
CL RKS	

Handed By BSA
G.A. BANLET,
Major, G.I.,
Acting Reg. Legal Officer.



7 Col Campbell

~~R-E-S-T-R-I-C-T-E-D.~~
~~CONFIDENTIAL~~

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

(770)

L/1007

14 August 1944.

SUBJECT : Pending Espionage and Sabotage cases.

TO : Chief Legal Officer,
ALLIED CONTROL COMMISSION.

1. This is to acknowledge your favour of
12 August 1944 with list of above cases attached. Please
accept my thanks.

2. Your impressions with respect to cases
Nos. 1, 13, 14 and 15 are quite correct.

Robert C. Hendrickson

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.



Col. Inf.
Chief Judicial Officer.
for Chief Civil Affairs Officer.

(P)

36

CONFIDENTIAL

R-E-S-T-R-I-C-T-E-D.

S E C R E T

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L.

/rlp.
14 August 1944.

SUBJECT : Case of BENTIVEGNA Rosario.

TO : Regional Legal Officer (TERU; Regional Commissioner), Region IV.

1. The record in the case of BENTIVEGNA Rosario is returned herewith with decision on review endorsed thereon. Please acknowledge receipt.

2. My decision on review, which is made with the approval of the Acting Chief Commissioner, is that the conviction and sentence are quashed.

3. The reasons for this decision are that in my opinion on the facts as found by the court, the defense of "legittima difesa" was completely established. I am satisfied that on this particular day the mere act by a young, excited Italian of drawing and pointing a pistol is sufficient evidence of an intention of shooting to justify immediate action by the accused in self-defense. Beyond this, there was definite evidence that the deceased "placed a round in the chamber." In these circumstances, where a life and death decision has to be taken in a fraction of a second, it is not in my opinion reasonable to expect the accused to deliberate upon the various courses which the court believed to have been open to him: still less is it reasonable to say that the method of defense which he did adopt was not "proporzionata all'offesa."

RICHARD H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

DOWN GRADED
UNCLASSIFIED

Col. Inf.
Chief Judicial Officer,
for Chief Civil Affairs Officer.

33

S E C R E T

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

IGHC/pa
14 Aug 44.

ACC/4083/1/L.

SUBJECT : Civilian offences.
TO : RLO Region 3.

1. On 21 July 44 one GHERARDI Bruno appeared before an AMG Court at Capua, the charge being in connection with 2 WD tyres on his car a BIANCHI No. S. 9.53353 ROMA.
2. He was released on 10,000 lire bail and, according to my information, he was "remanded for tribunal" i.e. presumably the case was transferred to the Italian Courts.
3. There is a little more than meets the eye in this case, as it appears that the owner of the car is a Lt. TAB-
CIONI Luigi of RR.CC., Tivoli, working under AMG.
4. Will you please make arrangements for the early trial of the case and communicate the result to this Sub-Commission.

(C)
RICHARD H. WILMER,
Colonel, GAC,
Acting Chief Legal Officer.

Copy to : Public Safety Sub-Commission;
Correspondence returned herewith.

247

Regal

4083/1

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

766

14 August 44

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

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

1. There is transmitted herewith documents
relating A.M.G. case vs. RECCHIONE Gennaro et al.
Form 8 and Application for Review in this case
were sent to A.C.C. 5 August 44.

For the Regional Commissioner:

ETK/pv

G.A. Banlet By E.T.K.
G.A. BANLET,
Major, G.I.,
Acting Reg. Legal Officer.



S E C R E T

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

765

ACC/4083/1/L.

/rlp.
13 August 1944.

SUBJECT : Case of BENTIVEGNA Roserio.

TO : Acting Chief Commissioner.

1. Referring to my conversation with you of yesterday, I am enclosing herewith the record in the above case. The accused was tried for the killing of a Finance Guard and was sentenced to eighteen months imprisonment. The court found him guilty, but reduced the penalty because of surrounding circumstances.

2. The only part of the record which I think you will care to read is the judgment, Flag "A". The court sums up fairly, in its opinion, the ultimate facts as it has found them. You will note on page 2 that the court found that upon seeing the deceased tearing down posters, the accused addressed him in an arrogant and insolent manner and it seems he replied in a similar insolent manner, pulled out his pistol and then the accused pulled out his own pistol and shot the deceased. In the court's opinion, this is a case in which two excitable and impulsive young men lost their tempers and resorted precipitately and unnecessarily to the use of firearms. This happened on the afternoon of 5 June which, as the court said, was a day doubtless when the atmosphere was fraught with electricity and feelings ran high.

3. The court found on the same page that the action of the deceased in drawing his pistol was unwarranted, that likewise the reaction of the accused was also unwarranted, and that this latter action exceeded the bounds of defense proportionate to the action of the deceased.

4. The evidence also indicates that the accused before firing, did step back, but the deceased kept the pistol pointed at him. By placing a bullet in the pistol, the deceased certainly gave the accused clear indication that the pistol might be used. The court took the position that the accused had other means of dealing with the situation without shooting to kill straightaway and found that there was no evidence to show that the deceased had any intention of shooting. My own view of the situation, taking the judgment of the court itself as a basis, is that in a matter of split seconds, a person located in a position of extreme danger cannot be expected to lay strategic plans for an escape from danger and may be justified in using the only reasonable means he has for his own defense. I do not feel that under all of the circumstances, the accused exceeded reason in doing what he did. While the court refers to the lack of proof of the intention of the deceased to shoot the accused, about the best evidence of intention is the excited mood of the holder of a pointed pistol. That is certainly the

DOWN GRADED

TO

UNCLASSIFIED

- 1 -

Col. Inf.

Chief Judicial Officer,

Chief Civil Affairs Officer.

S E C R E T

1764

intent that a reasonable man at the front end of a loaded gun might assume, more particularly when it is remembered that Italians are notoriously light on the trigger and that on this particular day feelings were running high. It is worthy of note that the Finance Guard who was killed may not have been recognized as an official by the accused as the defense contended, because he did not have a coat on, he wore no hat and had his sleeves rolled up; he did wear boots and uniform trousers.

5. There is an appeal in the case which raises the point of self defense again as it was raised in the trial (Flag "B"). The court in its remarks on this appeal (also Flag "B") in suggesting the actions that the accused might have taken short of shooting the deceased referred to the possibility that he might have presented to the deceased an explanation as to who he was and why he objected to the posters being taken down. Those are matters of deliberation. In the short time of this affair, mature deliberation could not necessarily be expected.

6. In view of this situation and on the court's own judgment, I propose on your behalf as Acting Chief Commissioner to quash the conviction and the sentence. This case was first independently reviewed by the Acting Deputy Chief Legal Officer, who has only recently arrived here and who was free from knowledge of all the political background, newspaper campaign, etc. Upon his review, he came to the same conclusion as I expressed above.

7. I should add that although I have endeavored to approach the consideration of this case on the sole basis of the facts in the record and the law involved, I have the definite feeling that my decision has been arrived at with greater difficulty because of the tactics of the accused's friends and well-wishers, the attempted political interference, and the newspaper attacks on the court and prosecuting officer and the general newspaper campaign.

8. Unless you have views to the contrary, or prefer to take the required action yourself, I will quash the conviction and sentence.

Richard H. Wilmer

RICHARD H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

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Incl:

Record of BENTIVEGNA case.

R-E-S-T-R-I-C-T-E-D.

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
REGION IV.
LEGAL DIVISION
A.P.O. 394

40891.

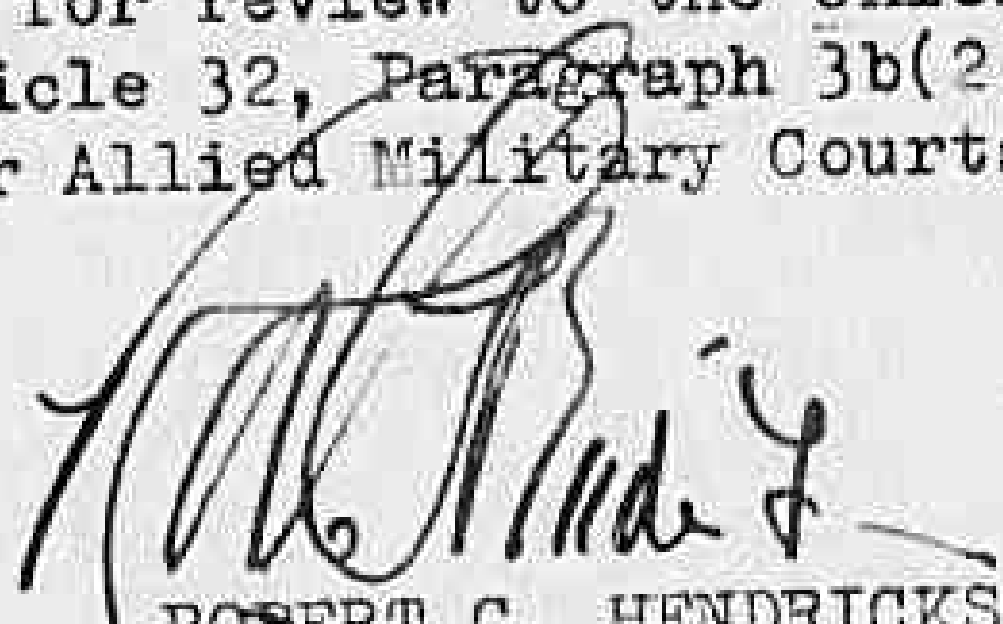
A. J. 1763

L/1023

10 August 1944.

SUBJECT : Petitions for Review.
THRU : Regional Commissioner.
TO : C.L.O. Legal Sub-Commission, A.C.C.

1. Herewith petitions for review together with review of proceedings in the case of BOCCUCCI ANDREA and BOCCUCCI GIUSEPPE, which are submitted for review to the Chief Commissioner in accordance with Article 32, Paragraph 3b(2) of the consolidated instructions for Allied Military Courts.


ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

ENCLOSURE :

Petitions for Review Re: above named.

28

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
AFO 394

/jpl

762

ACC/4083/1/L

12 Aug. 44

Subject: Documents in the Case of ORSSI Ferdinando & DI BELLO Luigi.

To : Regional Legal Officer, Region III.

1. The enclosed papers were forwarded to this Sub-Commission by G-5 section, Allied Forces Headquarters. (Copy of letter attached.)

2. The documents appear to relate to a case pending at CASERTA.

~~3. Will you please join them with the file of the case.~~

/c
RICHARD H. WILMER
Colonel, CAC

Acting Chief Legal Officer

Enc: Documents.

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

Legal S.C.

9791

(761)

12 August 44

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Com-
mission, A.C.C., Rome.

1. Pursuant to appropriate order I enclose
herewith the documents listed below relating to
Review of Sentences. In each of these cases the
sentences exceeded 2 yrs. imp. or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
✓ 3850	Circola Mario et al	Sup.Ct.1	24 July 44	Appl., Form 8
✓ 3899	Casoria Arcangelo et al	Avellino	26 " 44	Appl., Form 8
✓ 3853	Soreca Francesco Maffei Luisa	"	12 " 44	Form 8
✓ 3851	Ippolito Stefano Bertol Alberto	Sup.Ct.1	10 " 44	" "
✓ 3896	Barrella Vincenzo	" " 7	10 " 44	" "
✓ 3841	Franchomme Alberto	Prattanaghiore	8 " 44	Appl. Form 8 in this case sent to A.C.C. 8 August 44.
✓ 3812	Cadorin Antonio et al	Avellino	30 June 44	Appl. Form 8 sent to A.C.C. 1 August 44.
3855	Depasite Luigi	Castellammare	9 June 44	Appl. 26 Form 8 in this case sent to A.C.C.

For the Regional Commissioner:

Samlet by E.T.T.
A.C. SAMLET,
Major, G.L.,
Acting Reg. Legal Officer.

ETV/pv

4083/1

760

SUBJECT : Case of Iorio Giuseppe, Manna Salvatore,
Capozzi Vincenzo.

TO : Acting C.L.O. Legal Sub-Commission A.C.C.

FROM : Regional Legal Officer Region III

12 August 1944

1. Ref. attached correspondence with letter
from Officer presiding Superior Military Court No. 1 .

2. It is believed that the information re-
quired by you is now complete.

see 729

E. N. BLACKLOCK, Captain

for Maj. Canale - Acting A.C.C. Reg. 3

Note. To obviate unnecessary delay I was asked to hand
over this File to Legal Sub-Comm. in person

E. N. Blacklock Capt.

11/8/44.

SUBJECT : Case of Iorio Giuseppe, Manna Salvatore,
Capozzi Vincenzo.

TO : Regional Legal Officer : Region III

FROM : Officer Presiding Sup.Mil.Ct. No. 1

(Reference attached)

1. This case was determined on a Plea of Guilty by each of the 3 Prisoners. The Court was not satisfied that these 3 Neapolitans had found the Pistols and the Grenade in a ditch - as they declared. The Court took judicial notice of the fact (commented on by the Prosecuting Officer) that the Defendants were arrested in a locality of Napoli which is celebrated for its criminals or potential criminals. The Court had had a considerable number of Cases involving the " hi-jacking " of Allied Food lorries in which there was no doubt the Racketeer was armed and sometimes succeeded in disposing of his Arms before Arrest.

2. The sentence of one year in respect of the boy was on account of his youth and the fact of the other men's influence on him. *The man of 20 years was obviously misguided and I put him in the same category as the man of 25.*

E. N. Blacklock Capt.

E. N. BLACKLOCK, Captain

Presiding Sup. Mil. Ct. No. 1 21

4/8/44

28

*① Action taken
② 6 years sentences reduced
to 18 months
③ P.A.*

10/17/44

TO CLO HQ. ACC
 FROM HQ. REGION V AMG/ACC
 SUBJECT Petition^s for Review
 REF. R5/511/14

11 August 1944

1. Referring to our letter of 31 July 44 concerning cases of:-
 1. Di Stasi
 2. Frontino Maurio
 3. Gueducci Francesco
 4. Lamonica Pietro
 5. Russo Domenico
 6. Russo Giuseppe.
2. The records in the cases above and petitions for review for subjects N.s 1, 2 and 3 were forwarded in our 31 July letter.
3. Additional petitions for review for subjects 1, 2, 3, 4, and 6 are enclosed herein.

For the Regional Commissioner

2 Inclosures
 ARE/nm



J. L. WILLIS
 Lt. Colonel,
 RLO
[Signature]
 by A. R. THOMELI
 Lt. Colonel,
 DRLO

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

757

ACC/4083/1/L

10 Aug. 44

Subject: Case of CARILLO Luga; MALVONE Andrea; LANCELLA Vincenzo
ALEXANDER Raffaele; and TODISCO Carmine.

To : Regional Legal Officer, Region III.

1. The record of the proceedings against the above named accused is returned herewith.
2. ~~Only~~ With great reluctance, the convictions of all the accused have been quashed.
3. The reasons for quashing the convictions are as follows:
 - (a) The record is unsatisfactory; the first hearing was on 28 May before Capt. Peyton (judging from the writing); The form 8 shows a hearing before Capt. Blacklock sitting as a Superior Court on 17 June; the handwriting in the notes of evidence changes halfway through the case; and there is nothing to show that Capt. Blacklock ever heard the evidence for the prosecution.
 - (b) The evidence of PVT MOTA is incomplete and such that it is impossible to obtain a full picture of the case.
 - (c) The really vital evidence of the truck driver and others engaged in the transaction was not adduced.

stop; (d) The "confessions" are most unconvincing documents; they do not bear the ~~stone~~ of truth; and it is extremely doubtful if the accused understood, or fully understood, the contents of the documents they signed.

(e) It is alleged (see Petition for Review on behalf of TODISCO) that certain evidence for the defence was excluded.

ke

RICHARD H. WILDER
Colonel, GAO
Acting Chief Legal Officer.

22

Enc: 1 record.

*Original
✓
Returned
to
Filer*

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

756

ACC/4083/1/L

10 Aug. 44

Subject: Case of MORASCO Mazzareno

To : Regional Legal Officer, Region V.

1. Returned herewith is the proceedings in the case of MORASCO Mazzareno.
2. The petition submitted under cover of your letter R5/511/14 dated 3 Aug. 44 has now been considered.
3. The decision on review remains unchanged.

R

RICHARD H. WILMER
Colonel
Acting Chief Legal Officer.

4083/1

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

Legal *9525*
RS/as
755

Will

G-5: 311.18

9 August 1944

SUBJECT: Forwarding of documents.

TO : Headquarters, Allied Control Commission, APO 394.
(Legal Sub-Commission).

Attached herewith are papers regarding the arrest and trial of two Italian civilians. Forwarded to this HQ by error they are now transmitted to you for disposal.

Incl:
as above

Roland Segalini
ROLAND SEGALINI
Captain, CAC
Executive Officer

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 994

/jpl

(754)

ACC/4983/1/L

8 Aug. 44

Subject: Case of Sabino Domenico et al.

To : Regional Legal Officer, Region III.

1. The PLO's letter dated 1 Aug. 44 which your HQ sent to this office is returned herewith.

2. Para 3 of that letter is correct.

3. In view of the fact that the error has crept into not only our letter but also into our card index of reviews, will you please ensure that the record itself is scrutinized to see that the names of the accused and their respective sentences are in fact as stated in the PLO's letter dated 1 Aug. 44, ie.

DI BATTISTA ANTONIO
DI FLORIO VINCENTO
SABINO DOMENICO

sentence reduced from 15 yrs to 5 yrs.
sentence reduced from 10 yrs to 4 yrs.
sentence reduced from 15 yrs to 5 yrs.

4. Will you please communicate the above information to the PLO Salerno for action in accordance with para 4 of his letter.

1.C.

RICHARD E. WILMER
Colonel, OAC
Acting Chief Legal Officer.

Enc: PLO's letter.

CONFIDENTIAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

753

ACC/4033/1/L

8 Aug. 44

Subject: Case of LONGO Luigi

To : Regional Legal Officer, Region III.

I refer to your L/3020 of 21 July 44.

1. This case has received very careful consideration.
2. According to the Rules every person convicted by an AM Court is entitled to have the proceedings reviewed. As the record in this case is lost this is not possible.
3. If this were a case in which there could possibly be any serious question of law or any substantial doubt as to the guilt of the accused the Reviewing Authority would have no option but to quash the conviction. However, in this case the only charge is that on 15 Jan. 44 he was found with a loaded pistol on his person: of this he was found guilty; and the form 11 asks merely for a reduction of sentence. The Reviewing authority therefore accepts that the accused was properly convicted.
4. The Court imposed a sentence of 7 years imprisonment. Such a sentence could only be justified by some special facts which are not before the Reviewing Authority: therefore, this sentence cannot be permitted to stand.
5. The course which it is proposed to adopt is to accept that the conviction was proper; and, as to sentence, to give to the accused the benefit of every possible factor and to reduce the sentence to a term which might properly have been imposed on a person found (without any aggravating circumstances) with a loaded pistol on his person on 15 Jan. 44. On that basis, the sentence is reduced to 18 months imprisonment from date of conviction.
6. The above remarks are only to explain to your HQ the reasons which have influenced the Reviewing authority: the fact that the record has been lost will not be communicated to the prisoner or any Italians.

I.C.

18

RICHARD H. WILMER
Colonel, CAO

Acting Chief Legal Officer.

Enc: Petition for appeal.

Record now found. The case was 11/346
26/11/45

HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
A.P.C. 394, U.S. Army

G.O.R. / 1671

8 August 44

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Com-
mission, A.C.C. Rome.

1. Pursuant to appropriate order I enclose
herewith the Documents listed below relating to
Review of Sentences. In each of these cases the
sentences exceeded 2 yrs. imp. or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
✓ 3831	Di Sella Attilio	Sup.Ct.7	26 July 44	Appl., Form 8
	Marsico Ernesto			
✓ 3880	Barbone Angelo	Avellino 19	" 44	Appl., Form 8
	Romano Natale			
✓ 3886	D'Ambrosio Giovanni	Sup.Ct.1	4 " 44	Appl., Form 8
	et al			
✓ 3849	Flaminio Gennaro	" " 1	7 " 44	Appl., Form 8
✓ 3841	Franchomme Alberto	Prattamag. 6	" 44	Form 8
	et al			
✓ 3885	Acampora Luigi	Sup.Ct.No.527	June 44	Form 8

11

For the Regional Commissioner:

Ha. Bamlet By E.T.H.
G.A. BAMLET,
Major, G.I.,
Acting Reg. Legal Officer.

ETK/pv

22

R-E-S-T-R-I-C-T-E-D.

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
REGION IV.
LEGAL DIVISION
A.P.O. 394

751

L/1007

6 AUGUST 1944.

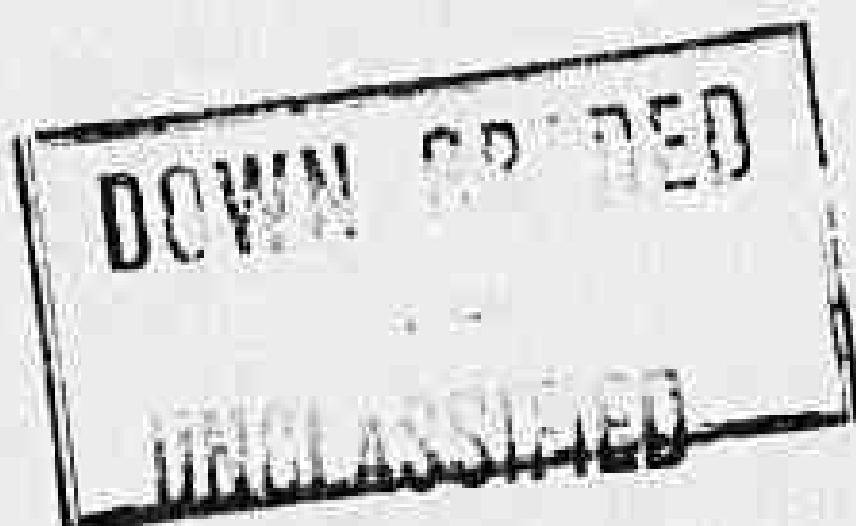
SUBJECT : Petition for Review BENTIVEGNA ROSARIO.
TO : Chief Legal Officer, Allied Control Commission.

1. Pursuant to the requirements established by paragraph 6 of Art. 32 of the Consolidated Instructives for Allied Military Courts, I enclose herewith :

- a) Petition for Review in the above stated matter with the comments of the trial judges appended thereto.
- b) Complete record of case, plus 6 exhibits.

2. In view of the political atmosphere which has surrounded this case since its inception, the remarks of the trial judges should be carefully noted and considered by the Reviewing Authority.

RCH/AC.



ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

Inf.
for Chief Civil Affairs Officer.

R-E-S-T-R-I-C-T-E-D.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

750

330/ps.
5 Aug 44.

ACC/4083/1/L.

SUBJECT : Report of investigation.

TO : RLO Region 4 .

1. The attached papers, relating to the improper use and wrecking of a truck by CARLO STIFFINI, are passed to you for submission to your Prosecutor's office.

RICHARD H. WILSON,
Colonel, C.A.C.
Acting Chief Legal Officer.

Copy to : Commanding Officer 2075th Regt.
Your letter 537.5 of 3 Aug refers.

HEADQUARTERS
2675TH REGIMENT
ALLIED CONTROL COMMISSION
(OVERHEAD)
APO 394

CMP/rsl

2 August 1944

File: 537.5

SUBJECT: Report of Investigation.

TO : Chief Commissioner, Allied Control Commission, APO 394, U. S. Army.
Attention: Chief Legal Officer.

1. MATTER INVESTIGATED.

This file relates to an investigation made by Major R. D. Hildebrand, CMP, Investigating Officer, into the facts and circumstances surrounding an accident in which a 1/4 Ton LxH Truck was totally wrecked in Rome, Italy on 12 June 1944 and two civilians were killed.

2. AUTHORITY.

Letter Order, Headquarters 2675th Regiment, ACC, dated 15 July 1944.

3. SYNOPSIS.

Carlo Stiffini, an Italian civilian mechanic employed by AMG, 5th Army Garage, No. 69 Piazza Ramusa, Rome, Italy took U. S. 1/4 Ton LxH Truck, Serial No. WD 20221862 on 12 June 1944 without authority for a joyride. He picks up two Italian Civilians, Augusto Gora and Ettore Giaccaglia, residents of Rome, Italy. The truck is wrecked on Via Tuscolana about 2100 hours. Augusto and Ettore both died as a result of the accident. The Mechanic, Stiffini, has been confined at the Carcere Regina, Rome, Italy since 13 July 1944.

4. RECOMMENDATIONS.

That this matter be referred to the appropriate AMG or Italian Court.

14
C. M. PARKIN
Colonel, Infantry
Commanding

1 Incl:
Exhibits Nos. 1 to 5 Inclusive.

HEADQUARTERS
ARMED FORCES COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/1.

/rlp.
5 August 1944.

SUBJECT : Petition for Review - BENTIVOGHA Rosario.

TO : Regional Legal Officer (THRU: Regional Commissioner), Region IV.

1. I return herewith the Petition for Review in the above case and the Remarks of the Court. You will notice that I have written a note on the two last sentences - sentences which affect neither the verdict nor the sentence of the court.

2. No doubt, you will submit the record for review in due course.

K
I.O.H. CAMPBELL,
Lt. Col.,
Chief Judicial Officer,
for Acting Chief Legal Officer.

Encl.

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

747

5 August 44

Subject: Transmission of Enclosed Documents
relating to Review of Sentences.

To : Chief Legal Officer, Legal Sub-Com-
mission, A.C.C., Rome.

1. Pursuant to appropriate order I enclose
herewith the documents listed below relating to
Review of Sentences. In each of these cases the
sentences exceeded 2 yrs.imp. or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
✓ 3848	Pinopi Luigi et al	Sup.Ct.	1 21 July 44	Appl., Form 8
✓ 3875	Marangio Francesco "	"	7 26 June 44	Appl., Form 8
✓ 3877	Chiarolanza Raimondo "	"	7 3 July 44	Appl., Form 8
✓ 3876	Gigantini Francesco "	"	1 5 " 44	Form 8
3813	Maffettone Biagio "	"	1 29 " 44	Appl. Form 8 in this case sent to A.C.C. 1 Aug.44.

For the Regional Commissioner:

12

G.A. Banlet By E.T. K.
G.A. BANLET,
Major, G.I.,
Acting Reg. Legal Officer.

ETK/pv

*James
with case
and follow*

fill

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

746

AOC/4083/1/L

4 Aug 44

Subject: Case of Lamberti Guido

To : Regional Legal Officer, Region IV.

1. Herewith the record of the above case together with letter from the RIO of the Old Region IV. to this Sub-Commission.

2. In the circumstance of the case, it is considered that the judge was quite justified in suspending the sentence.

Enc: Record of Proceedings.

le

RICHARD H. WILMER
Colonel, CAC
Acting Chief Legal Officer.

4083/1

Regal

745

TO : H.Q., 3 Corps.
FROM : H.Q., Region 5, A.M.G.
SUBJECT : Wine Supplied to Officers Club Lanciano.
REF : RS/504/12.
DATE : 4 August 1944.

5 AUG 1944

Mastered.

Further to this office letter of even number dated. 18 July 44 attached please find further report from Provincial Commissioner, Chieti - Pescara - Teramo for your information and necessary action.

For Regional Commissioner.

A. A. Pascarella
A. A. PASCARELLA
WOJG USA
Adjutant.

Copy to: H.Q., A.C.C. (For C.L.O.)

TS/of

843

10

10

Subject: Wine supplied to Officers Club - Lanciano
 To :- H.Q. 5 Corps
 From :- Provincial Commissioner, Chieti, Pescara & Teramo
 Provinces.

With reference to my letter CH/Lanc/221 of 10 July, I can not give further particulars of the outstanding claims against the Officers Club, Lanciano for wine supplied by Testa Antonio, amounting to Lire 183,012.

Lt. Hart, who was in charge of the Club, contracted to buy wine from Testa at a price which was high and Testa sought to fulfill this order. Subsequently Lt. Macmillan, who took over the running of the Club, considered the price to be too high, and complained to A.M.O. Lanciano. Testa was tried and convicted before the C.A.O. Lanciano for charging more than the maximum price allowed by a price - list issued on 1941 or 1942, and the conviction and sentence were quashed on review by the Chief Legal Officer.

At the time of Testa's arrest, certain wine on his firm's premises was seized and blocked, but subsequently released and delivered to the Officers Club as ordered for consumption by the Club. These are items A, B, and C on the attached list.

The remainder of his claim is for other wine delivered to the club and for containers, for none of which he alleges he has been paid.

Certain Turner, who was then the A.M.O. Supply Officer at Lanciano, states that he told Lt. Macmillan, that though he did not think the Club would have to pay the full contract price to Testa, it might have to do so as the matter was still "sub judice" and could not be considered as finally settled until the decision of the Reviewing Officer was received.

y

Robertson
 Lt. Col.

and compensation to A.M.C. Lanciano. Testa was tried and convicted before the C.L.O. Lanciano for charging more than the maximum price allowed by a price - list issued in 1941 or 1942, and the conviction and sentence were quashed on review by the Chief Legal Officer.

At the time of Testa's arrest, certain wine on his firm's premises was seized and blocked, but subsequently released and delivered to the Officers Club as ordered for consumption by the Club. These are items A, B, and C on the attached list.

The remainder of his claim is for other wine delivered to the club and for containers, for none of which he alleges he has been paid.

Certain Turner, who was then the A.M.C. Supply Officer at Lanciano, states that he told Lt. Macmillan, that though he did not think the Club would have to pay the full contract price to Testa, it might have to do so as the matter was still "sub judice" and could not be considered as finally settled until the decision of the Reviewing Officer was received.

y

Reith
Lt. Col.
Provincial Commissioner
Chieti, Pescara & Teramo Provinces

31 July 1944

Copy to H.Q. A.M.C. Region 5

Copy to C.L.O. H.Q. A.C.C. (thru' H.Q. A.M.C. Region V)

AVV. Luigi De Giorgio
Lanciano - Largo Tappia Tel. 1-77
Ortona a Mare - Largo Plebiscito

Lanciano, July 16th 1944

To :- Maj. G.M. Welsford
P.L.O. - Chieti Province

Re. TESTA ANTONIO - Lanciano

With reference to your letter of the 10th inst. I give you the informations about the wine forfeited from Testa Antonio.

On 19 April 1944 - the R. Guardia di Finanza at Lanciano have removed from Testa's premises 759 bottles of red and white "passito", the price of which is 126 lire per bottle = L.95.6

A

On 24 April 1944 - The R. Guardia di Finanza at Lanciano have removed from Testa's premises 76 bottles of "Aleatico", at the price of lire 119 per bottle L.7.973 =

B

On 24 April 1944 - The R. Guardia di Finanza at Lanciano have removed from Testa's premises 527 Kg. of common white wine, at the price of lire 15 per Kg. L. 7.905

C

On 14 April 1944 - the following quantities of wine supplied to Whithart Hotel (Officers Club Lanciano) whose representative was Lt. Mac Millan:-
Kg. 453 of red "passito", at L. 180
per Kg. L. 82.440
of which L. 12.440
was paid in. That gives a balance..... 70.000

Total..... L.181.51

The above said Officer Club has not returned two big bottles at the price of 250 lire each and a barrel of the price

removed from the premises of "Alentico", at the price of
76 bottles of "Alentico", at the price of
lire 119 per bottle L. 7.973 =

On 24 April 1944 - The R. Guardia di Finanza at Lanciano have
removed from Testa's premises
527 Kg. of common white wine, at the price
of lire 15 per Kg. L. 7.905

On 14 April 1944 - the following quantities of wine supplied
to Whithart Hotel (Officers Club Lanciano)
whose representative was Lt. Mac Millan:-
Kg. 453 of red "Passito", at L. 160
per Kg. L. 83.440
of which L. 13.440
was paid in. That gives a balance..... 70.000

Total..... L. 181.513

The above said Officer Club has not returned two big
bottles at the price of 250 lire each and a barrel of the price
of 1000 lire.

Signed Avv. De Giorgio Luigi

408311
✓
TO CLO HQ. ACC.
FROM HQ. REGION V ACC
SUBJECT Petitions for Review
REF. R5/511/14.

4 August 44

1. Herewith file for Review in the case of Pezzano Aldo.

For the Regional Commissioner

ARP/rml



W. E. BURENS
Colonel, RLO

A. R. Troell
by A. R. TROELL
Colonel, P.A.
RLO

967

7

Legal (142)
8556
110

0331

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

785016

HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

SUBJECT: Case against BARBONE Angelo and
ROMANO Natale.

TO : Regional Legal Officer,
A.C.C., Region 3.

Enclosed is original and typewritten copy of Form 8 in the
above case, together with petitions for review on behalf of the
accused.

Dated : 3 August, 1944

Perluver
A.E. GOLD, Captain,
Provincial Legal Officer,
Avellino.

HQ. REGION 3 A.C.C.

5 AUG 1944

Time in _____
Distpatched _____

File

4083/1
TO CLO HQ. ACC (Thru PC)
FROM HQ. REGION V AMG/ACC
SUBJECT Petitions for Review
REF. PS/511/14

3 August 44

1. Herewith Petitions for Review in the cases of Palieri Filippo and MORASCA Nazzareno.
2. The file of Morasca was forwarded to your office on 11 July 44 without petition for review and your comment of action is noted in your letter ACC 4083/1/L, 26 July 44.

For the Regional Commissioner

2 files enclosed
ART/mn

W. E. BEHRNS
Colonel,
RIO

by A. R. TROXELL
Lt. Colonel, F.A.
DRLO

G.A.N. 1239

4083/1

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

739

1 August 44

Subject: Transmission of Enclosed Documents relating
to Review of Sentences.

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

1. Pursuant to appropriate order I enclose
herewith the documents listed below relating to
Review of Sentences. In each of these cases the
sentences exceeded 2 yrs. imp. or 30 days expired.

Legal File No.	Name	Court	Date of Trial	Docu- ment
✓ 3811	Nocera Ferdinando	Prattungione	29 June 44	Ap 1., Form 8
✓ 3810	Letterale Vito	"	8 July 44	Ap 1., Form 8
3812	Selocchi Luigi et al	Gen. Ct.	30 June 44	Form 8
		Benevento		
✓ 3813	Maffettone Ruggio	Sup. Ct. I	29 "	44 " "
✓ 3814	Di Donna Giuseppe et al	"	30 "	44 " "
✓ 3815	Curino Vincenzo	Sup. Ct. I	27 "	44 " "

For the Region 1 Commissioner:

4
Hq. Signed By E. T. H.
G.L. DANIEL,
Major, G.L.,
Acting Res. Legal Officer.

ETM/TV

HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

738

ACC/4083/1/L.

/pa.
1 Aug 44.

SUBJECT : Case of MORGATICO Carmine et al.

TO : Regional Legal Officer, Region 3.

1. The convictions in this case have been quashed, on the grounds that there is no, or no sufficient, evidence to warrant conviction.
2. The charge against all the accused is of "pillaging the bodies of American airmen".
3. Against CAPUTO, the only evidence is that on 18 May (twenty days after the crash) he was seen to steal a piece of rubber about 1 foot long.
4. Against BORTONE it is not clear what the evidence is. He is not amongst the four mentioned by the first witness: Exhibit A is not with the record, but presumably he is not amongst those who (allegedly) were reported as ^{stealing} ~~skipping~~ the bodies.
5. Against the other four (MORGATICO, PIGNATELLI, QUATRALA, CAPOMICCO and perhaps against BORTONE) the only "evidence" is the statement of the Maresciallo that ZANDOLINI had reported that all the accused but CAPUTO were skipping the dead bodies. This is not admissible evidence: it does not even show whether or not ZANDOLINI then said that he personally had seen them skipping the bodies: and ZANDOLINI in Court denies that he even made such report. There is no confirmation either way: the record does not show when the home was searched: but no trace of any clothing was found.
6. While it is clear that some of the accused certainly stole minor articles from the vicinity of the crashed plane, there is not sufficient evidence to warrant a conviction for pillaging the bodies of the airmen and the convictions are therefore quashed.
7. In conclusion: it is appreciated that three accused pleaded guilty: but it is felt that because of the conflict on the facts and because there was no evidence whatever against CAPUTO and no

- 2 -

737

admission by him, the case is too unsatisfactory to be allowed to stand.

RE
RICHARD H. WILMER,
Colonel, C.A.C.,
Acting Chief Legal Officer.

See letter 40831/L 12/0-8

ALLIED CONTROL COMMISSION
SALERNO PROVINCE
LEGAL OFFICE

(736)

I August 1944

Subject: Sabino Domenico and others.

To : R.L.O. Region 3.

1. In accordance with instructions received in letter from Legal Subcommittee dated 6/7/44 ref.N.ACC/4083/I/L, I instructed the Director of Salerno prison to reduce, on his records, the sentences of Di Battista Antonio, Di Florio Domenico and Sabino Domenico from 15 years, and 10 years respectively to 5 years, 5 years and 4 years respectively.

2. I am advised by the prison authorities, however, that the real names of the defendants are Di Battista Antonio, Di Florio Vincenzo and Sabino Domenico, and that the original sentences, as recorded, were 15 years, 10 years and 15 years respectively.

3. I am sure the errors were typographical and therefore can be corrected to read:

1) Di Battista Antonio, sentence reduced from 15 years to 5 years.

2) Di Florio Vincenzo, sentence reduced from 10 years to 4 years.

3) Sabino Domenico sentence reduced from 15 years to 5 years.

4. As soon as I receive your advice in this matter, I shall advise accordingly the Director of Salerno prison.

Carl C. Bannò
1st.Lt.A.C.
Provincial Legal Officer
Salerno Province

Forwarded By R.L.O.Reg.III

0 3 3 7