0338

ACC

10000/142/575
(VOL. 8)

REVIEW
SEPT. 1

75 REVIEW OF ALLIED MILITARY COURT CASES, CORRESPONDENCE
SEPT. 1944

23

ACC/4083/1/I.

Vol. 8

FROM No. 830

TO No. 923

SUBJECT : REVIEW OF ALLIED MILITARY COURT CASES

CORRESPONDENCE

SUBJECT : REVIEW OF ALLIED MILITARY COURT CASES

CORRESPONDENCE

96

10000 | 142 | 575

THIS FOLDER
CONTAINS PAPERS
FROM Dept. HH
CATALOGUE

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

923

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

28 September 1944

L/1005

SUBJECT : Case of FARINOLA Giovanni.

TO : Chief Legal Officer,
Legal Sub Commission, Allied Commission
ROME

1. Herewith please find record in the above case for your consideration.

2. It should be noted that this case was informally reviewed for me by Major McFadyean and that I sustained his conclusions. Subsequently the record was reviewed by Colonel Poletti, who sustained my views in the matter.

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3. The case is now transmitted to you to determine (1) whether or not the concurrent sentences imposed by the Trial Court bring it within the provisions of paragraph 3 B(2) of article 32 of the consolidated instructions and (2) whether the findings and sentence are justified by the record.

4. It was my feeling at the time of the review, that since the sentence as laid down could not under any circumstances subject the accused to more than two years imprisonment, the case was one which did not fall within paragraph 3- B (2).

This seems to be the view taken by many Legal Officers, but since I have heard some rather impressive arguments to the contrary, I thought that the question should be determined by the "Court of last resort".

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer,

RCH/PA.

ENCLOSURE:

Record Re. the above case.

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

0343

FROM No. 830

TO No. 923

95

1083

Legal

922

RVIII/19/3006

Ist Ind.

Regional Legal Officer, Region VIII (Tuscany) 25 September 1944
TO: CHIEF LEGAL OFFICER, Hqtrs., ACC.

1. From the facts disclosed in the basic letter, it appears that the purported legal acts have failed in their intended legal effect. It is submitted that liability exists for the resulting damages proximately caused thereby.

2. Assuming that Captain Gordon is responsible for his conduct sounding in tort, the question arises, is the Government of the United States responsible under any legal premise?

3. Even if it be asserted that the answer is "No", there exists in the claimant either a right or privilege to predicate a claim for the adjudication thereof. The limitation in point of time within which such claim may be filed does not yet appear upon the horizon. In the meantime, by lapse of time, the facts may become obscured to such extent as to give color to the claim.

4. If the matter was now referred to the agency charged with the administration of such matters, perhaps the issues might be foreclosed by action on its part.

5. Will you please give any suggestions you may have to offer for our information and guidance?

LEGAL SUB COMMISION
CLO ✓
DCLO
Chief Counsel
CJO
Action Section
CLERKS

John K. Weber
Colonel, Infantry
Regional Legal Officer

1st Ind.

RVIII/19/3006
Regional Legal Officer, Region VIII (Tuscany) 25 September 1944
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John K. Weber
Colonel, Infantry
Regional Legal Officer

1st Ind.

Regional Legal Officer, Region VIII (Tuscany) 25 September 44. To: Chief Legal

HEADQUARTERS
A.M.G. P.L.O.
Livorno Province

September the 15th. 1944

SUBJECT: Seized automobiles
TO : The Regional Legal Officer, Region VIII (through [illegible])

1. Herewith are sent (1) a copy of a letter dated 6 Aug.1944 which was sent by Captain GORDON, then C.A.O. of GROSSETO, to CIC. 5th. Army, and (2) a copy of a letter dated 23 Aug. 44 sent by Capt.GORDON to this Headquarters.

2. The facts relating to the seizure of the Lancia Convertible from BRUNNER Leone are set out in the letter of 6 Aug.- It is not known what action, if any, has been taken by C.I.C.,but it does not appear that BRUNNER has been tried by an AMG. Court in this Province.

3. The other two vehicles were, it is understood, stopped by Captain GORDON who ejected the passenger and seized the vehicles. No proceedings were taken against the owners, drivers or passengers and they have not been tried by an AMG. Court.

4. Later, one evening about 2300 hours, Captain GORDON purported to turn himself into an AMG. Summary Court and to order the confiscation of the three vehicles. No summons or charge sheet was served on any person. In fact the whole proceedings seem to have been highly irregular.

5. On the seizure of the vehicles parts were taken from them and other parts were added to them , so that it is now almost impossible to restore them to the condition in which they were originally.

6. It will be appreciated if a ruling can be given how this matter can best be cleared up.

J.A. Barnett
Major for
Robert M. Woodward
Maj. P.L.O.

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J.A. Barnett
Major for
Robert M. Woodward
Maj. P.I.O.
Livorno Province

Copy to:
P.O. Castagneto

RVIII/19/3006

ALLIED MILITARY GOVERNMENT
Cecina

August 6, 1944. 920

TO. : C.I.C. 5th. Army

SUBJECT : Leone Brunner, Corboli Viviana, Corboli Alessandro, D'Antoni Carole

1. The following named persons were apprehended this date and brought to this office for questioning.
See persons listed in subject matter.

2. Brunner the driver of the car was in possession of an alleged A.M.G. pass signed by "Lt. Giampapa" who is not known at this office. The female passengers were also in possession of a pass signed by the same party. Both passes authorized travel from Palaio to Rome and to all appearances appear to be forgeries.

3. In the car M.I.11553, was found a card which reads "IN DIENSTEN DEST O.P.". Asked about this card Brunner stated that the car had been used by the German Army until recent date. Brunner speaks with a decided German accent, speaks fluent English, Italian, German and French. Questioned further Brunner stated that he had left Rome for Palaio last week, having secured an official pass which he had either lost or left at Rome. This statement was made to the undersigned in the presence of Sgt. Costello of Stars and Gripes Special Service Section; and all conversation was had in English. Later, before Lt. Ammerman of C.I.C., subject denied having obtained a pass to travel from Rome to Palaio. For this reason car driven by subject has been impounded here and a charge of violation of proclamation 1, Art. 5, Sec. 39: "Giving false information about a matter of official concern" has been filed against him; and all persons listed in the subject matter have been turned over to the C.I.C. 5th. Army for further interrogation.

?

c/o Provincial Comm.
Livorno Province

signed William A. Gordon
Captain C.M.P.
C.A.O. Cecina

3. In the car M.I.11553, was found a card which reads "IN DIENSTEN DES O.T.". Asked about this card Brunner stated that the car had been used by the German Army until recent date. Brunner speaks with a decided German accent, speaks fluent English, Italian, German and French. Questioned further Brunner stated that he had left Rome for Palaio last week, having secured an official pass which he had either lost or left at home. This statement was made to the undersigned in the presence of Sgt. Costello of Stars and Stripes Special Service Section; and all conversation was had in English. Later, before Lt. Ammerman of C.I.C., subject denied having obtained a pass to travel from Rome to Palaio. For this reason car driven by subject has been impounded here and a charge of violation of proclamation 1, Art. 5, Sec.39: "Giving false information about a matter of official concern" has been filed against him; and all persons listed in the subject matter have been turned over to the C.I.C. 5th.Army for further interrogation.

c/c Provincial Comm.
Livorno Province

signed William A. Gordon
Captain C.M.P.
C.A.O. Cecina

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13B
N.784

22/8

Allied Military Government
Cecina.

23 August 1944

Special convening of Summary Court, Cecina.

A summary court convened at Cecina for the purpose of making final disposition of automobiles previously impounded at this station.

The record of investigation reveals that in all ca ses sufficient time has been given the alleged owner of each machine to show cause why the machine impounded should not be permanently confiscated and turned over to the transportation officer, Livorno Province for the official use of the Allied Military Government.

In the following cases the court orders that the machines as indicated be confiscated, and turned over to the transportation officer for official use.

OWNER	DESCRIPTION	REASON FOR CONFISCATION.	DISPOSITION.
Brunner Leone Rome.	Lancier Convertible M.I. 6+5734	Suspected of being foreign agent by C.I.C. and false informa tion to CAO, Cecina.	Turned over to T/O. In use at Cecina
Pezzo Alberto Livorno	Open Body Truck L.I. 8331	Illegal use, carry ing passengers w/o permits.	To T/O. in use at Cecina.
Nannelli Asteven Piombino	Ballila 4 door Sedan	Illegal usage beyond limits of permit.	At Cecina awaiting disposition by T/O.

c/c Prov. Comm.
c/c Prov P.S. Comm.
c/c File.

William A. Gordon,
Captain CMP.
Cecina

Legal S/c

918

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

25 September 44

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

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

1. There is transmitted herewith the Form 8 in the case of APREA Ferdinando for Review of Sentence. The sentence exceed 2 years imprisonment and 30 days expired.

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

ETK/pv

Reviewed

917

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

29 September 44

Subject: AFFINITO Giuseppe.

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

1. There is transmitted herewith Form 8 and Application for review in the case of AFFINITO Giuseppe who was sentenced by General Court to life imprisonment.

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

ETK/pv

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

file H803/1

L/3031 30 September 44

Subject: Certificate or opinion for Italian Military Tribunal in case of PISCITELLI et al.

To : Chief Legal Officer, Legal Sub-Commission, ACC, HQ., (Attention Col. BEHRENS).

1. The Italian Military Authorities have requested my advice on the legal affect of your decision in setting aside the conviction and sentence in the PISCITELLI case upon jurisdictional grounds.

2. They have been advised that the legal affect of the decision is that the entire trial was a nullity, both with respect to the verdicts of "guilty" and "not guilty" on all the charges involved, so that the situation, for all legal purposes, is the same as if no trial whatsoever had been held before an Allied Military Court. This explanation has satisfied the Italian Authorities on the law but they have requested an official statement to this affect. When I spoke to Colonel Behrens about this case over the telephone some time ago he stated that he would be prepared to give a certificate setting forth that the proceedings had been quashed for lack of jurisdiction in the trial Court.

3. May I accordingly request that you will furnish me with a certificate along the lines set forth in para.2 of this letter. Such a certificate

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will stop all arguments based upon the principle of res judicata or autrefois acquit.

4. I shall be glad if the certificate may be issued in the form of an original and duplicate original as Piscitelli's Counsel has also asked to be supplied with a certified copy of your decision (vide copy of application attached hereto).

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

LFD/pv

914

To: Legal Division Chief

Naples

The attorney of Luigi Piscitelli and others beg your higher Command to make available for us the ruling of the legal Sub-Commission Rome on the application for a review of sentence,

Yours devoted

S/ Amedeo Pistolese
Piazza 7 Settembre 28
Naples

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

913

ACC/4083/1/L

30 Sept. 44

Subject: Case of CAMPESE Anna et al

To : Regional Legal Officer, Southern Region.

1. The record of the proceedings against CAMPESE Anna, MAFTKI Louisa and SORECA Francesco is returned herewith.

2. CAMPESE was acquitted by the Court; the conviction of the other two has been quashed.

3. The only "evidence" against these two is:-

i. the statement (later withdrawn) of CAMPESE; which statement (even if not withdrawn) is not evidence against these two accused;

ii. the evidence of OTRANTO: but having regard to the fact that Maerni (his wife) had been co-habiting with SORECA for a considerable time and that there was considerable hard feeling on this account between OTRANTO and his wife and her lover, this evidence is not such as to support a conviction without ample corroboration.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer

Enc: 1 Record.

4083/1

912

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

N.155 Prot. 29 September 1944

SUBJECT: GERELLI Bruno (Civilian Cases).

TO : CLO, Legal Sub-Commission, HQ, ACC.

849

1. Reference is made to your letter N. ACC/4083/I/L, dated 7 September 1944.

2. Further investigation, made through the Procuratore Generale, reveals that Gerelli Bruno was arrested 15 July 1944. The matter went to the Procura del Regno of Santa Maria C.V., and from there, all papers were forwarded to the Procura del Regno of Roma, as the matter was of Rome jurisdiction.

For the Regional Legal Officer:

Carl C. Bannò
1st. Lt. A.C.
Officer i/c Italian Courts

CCB/ga

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

911

ACC/4083/1/L

30 Sept. 44

Subject: Case of PALIERI Filippo di Benedetto.

To : Regional Legal Officer, Southern Region.

1. A further petition has been received in regard to the following case :

PALIERI Filippo--convicted at Cerignola (Foggia) 23/7/44 for a black market offence in regard to oil-sentenced to 2 years and 350,000 lire.

2. Will you please forward the record of the above case to this H. Q. for consideration in regard to this new petition.

RICHARD H. WILMER
Colonel, GAC
Chief Legal Officer.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

30 Sept. 44

ACC/4043/1/L

Subject: Case of GAUDINO Salvatore

To : Regional Legal Officer, Southern Region.

1. Thank you for the use of the record of the proceedings in the above mentioned case.

2. The record is returned herewith.

Richard H. Wilmer
Colonel, GAC
Chief Legal Officer

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4083/2/L 27 Sept. 44

Subject: Case of ALBANESE Vincenzo & FRISCO Giuseppe.

To : Regional Legal Officer Abruzzi-Marche Region.

1. Returned herewith are the papers in the proceedings against ALBANESE Vincenzo and FRISCO Giuseppe.

2. In the former case, the conviction and sentence have been affirmed.

3. In the latter case, after very careful consideration, the conviction has been quashed. The evidence of the prosecution was extremely thin: in effect it boiled down to the following:-

> that the accused's mule was at the scene of the crime and was shot; that the accused was in the general vicinity on the evening in question; and that on some day (unspecified-see p. 6 of record) Frisco had asked the witness Conti where the ammunition was stored.

It is true, and full weight has been given thereto, that the Court disbelieved the defence of Frisco (see p. 14 of record). However the Prosecution failed to establish, either by direct evidence or by circumstantial evidence such as to lead to an ~~inexistable~~ irresistible conclusion, that the accused was at the scene of the crime.

4. Purely by way of comment, it is remarkable that RUGGIERO was not called either by Prosecution or Defence: he could have cleared up the movement of Frisco during the material hours.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

Encl: 1 record.

Rte file

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

908

ACC/4083/1/L. /rm.

25 Sept. 44.

SUBJECT : Case of TANGO Aeter et al.

TO : Regional Legal Officer, Southern Region.

1. Thank you for the use of the file in the above mentioned case.

2. The file is returned here with.

Enc. 1 file.

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

See 909

408311

407

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

23 September 44

Subject: Case of TANGO Aster et al.

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

1. Per request of Colonel Wilmer there is attached hereto the files in the case of the above subject.

2. This is the case that the attention of the President was requested.

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

ETK/pv

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

906

/pa.
22 Sept 44.

ACC/4083/1/L.

SUBJECT : Case of Vito Vincenzo LATTARULO.

TO : The Acting Chief Commissioner, ACC.

1. In further reply to your memorandum of 16 September 1944 the record in this case has been re-examined by the Deputy Chief Legal Officer who has discussed the case with me.

2. The accused was found guilty of attempting to intimidate 2/Lieut. Northrop, an American Officer of the Hemp Control Office, in the execution of his duty, and also of stating falsely that he was a member of the CIC.

3. At the trial the accused denied both these charges, but the evidence of 2/Lieut.Northrop was quite unambiguous on both points. The decision was a pure question of fact, upon which the judge's conclusion should be accepted. I should add however that the story told by the accused was most improbable, and I am satisfied that the decision was right.

4. I think also that the sentence is reasonable. I do not recommend any reduction in the period to be served.

5. I have drafted a letter to the Superior General of the Minimes for your signature.

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

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(905)

A/OC 250-1. September 1944.

Most Reverend Father,

I have to acknowledge your letter of 15 September 1944 and to advise you that I have referred the memorandum of Sig. Vito Vincenzo Lattanzio to my Chief Legal Officer for his consideration. He informs me that in his opinion and in view of the evidence given at the trial the conviction of Sig. Lattanzio was correct, and that the punishment is not unduly severe.

In these circumstances I cannot interfere with the sentence which has been passed.

HUBERT W. WYCHE,
Captain, USNR.
Acting Chief Commissioner.

The Father General,
Holy Order of the Minimes,
Piazza S. Francesco di Paola, 10,
ROME.

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Prepared by : Colonel R.H.Wilmer, Chief Legal Officer, Legal Sub-Commission.

Richard H Wilmer
Colonel, CAC.

ALLIED CONTROL COMMISSION

INTER OFFICE MEMO EMS/ejp

17 SEP. 1944

From: Office of the Acting Chief Commissioner

SUBJECT: AMG Court - Case Sig. Vito Vincenzo Lattarulo.

FILE No.

16 Sept 1944

TO: Legal Sub-Commission (Through: Administrative Section)

With reference to attached letter from The Father General, Holy Order of the Minimes, and enclosure, please let me have your comments.

E. M. S.

2 Incls:
as above.

See 903

75

1361

TRANSLATION

HOLY ORDER OF THE MINIMES

THE FATHER GENERAL

Rome, Piazza S. Francesco di Paola, 10

Tel. 40.654

403

TO CAPTAIN ELLERY STONE

ALLIED CONTROL COMMISSION

LEGAL OFFICE - ROME

The undersigned takes the liberty of drawing your attention on the memorandum of Sig. Vito Vincenzo Lattarulo, against the verdict of the Supreme Court of the A.M.G. in Fratta Maggiore (Naples), on July 8th 1944, hoping that he may be treated with charity, without prejudicing justice.

I remain,

Yours truly,

Obblmo. P. Giacomo Tagliaferro

Superior General of the Minimes

Rome 15/9 1944

Trans. E.C.

902

FRATTAMAGGIORE(Naples), August 30th 1944

Capt. ELLERY STONE,
Chief Allied Control Commission
R O M E

Sir:

I, the undersigned Italian citizen LATTARULO VITO VINCENO at present detained in the FRATTAMAGGIORE prison, serving a sentence of six months, (of which about one third has been already served), do hereby take the liberty of submitting the following protest against what I hold to be a very injust decision issued by the Allied Military judicial organs in Italy against an unoffending and law-abiding citizen. The following are the facts:

1. On June 23rd last, the Allied Military Authorities of Frattamaggiore (near Naples), having control over the so-called HEMP CONTROL OFFICE; raided the premises of one FERDINANDO NOCERA of the town of Casoria, a suburb of Naples. This man, the owner of a long-established firm dealing in military supplies for the Italian armed forces, and latterly furnishing large quantities of material needed by the British Army, was accused by the said HEMP CONTROL OFFICE of having failed to declare the stock of hemp-cloth which he possessed, thus incurring in the sanctions of the Allied proclamation concerning hemp and its by-products.

2. NOCERA maintained that the hemp-cloth he owned belonged to the British Army, inasmuch as he had to execute several large orders for its account; and he, in fact, did ehibit contracts from the A.D.O.S. But the Officer who called on him, 1st Lt. WILLARD B. NORTHROP, U.S.,ARMY, held that notwithstanding the existence of such contracts, Nocera was bound all the same to declare the existence of the hemp-cloth to the Control Office. Having failed to do so, Nocera was in default.

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3. I happened to be at Nocera's when Lt.Northrop called. I was a friend of Nocera, and visited him every now and then. There was, however, no business connection between him and me; our

HEMP CONTROL OFFICE; raided the premises of one FERDINANDO NOCERA of the town of Casoria, a suburb of Naples. This man, the owner of a long-established firm dealing in military supplies for the Italian armed forces, and latterly furnishing large quantities of material needed by the British Army, was accused by the said HEMP CONTROL OFFICE of having failed to declare the stock of hemp-cloth which he possessed, thus incurring in the sanctions of the Allied proclamation concerning hemp and its by-products.

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73

3. I happened to be at Nocera's when Lt.Northrop called. I was a friend of Nocera, and visited him every now and then. There was, however, no business connection between him and me; our relations were purely of a social nature. Mr. Nocera, knowing that I knew English, begged me to act as interpreter for him in conveying to Lt.Northrop his views of the case. This I did as an act of courtesy . In the conversation that ensued between Nocera and Lt.Northrop I acted as an impartial conveyor of the views expressed by the former to the latter, and viceversa. The utmost serenity reigned during the conversation, and as far as I was concerned, I demeaned myself in a courteous manner and wholly becoming to a gentleman. Lt. Northrop appreciated my services.

4. This officer, not being satisfied with Nocera's explanations, sent to Frattamaggiore for his superior, Capt.THOS.A.BRADBURY US ARMY, chief of the Hemp Control Office, for a decision in the matter. Capt.Bradbury on his arrival at Nocera's, violently

(901)

thrust me aside without any plausible cause, and ordered the raid of Nocera's premises and the seizure of the hemp-cloth. I was ordered by Capt.Bradbury to clear out, which I immediately did.

5. Nocera and his son-in-law, GIOVANNI SARNO, the manager of hia business, were arrested on the following day, the 24th June; and having both stood trial at the A.M.G. Superior Court at Frattamaggiore on the 29th June, were sentenced to 7 years' and 5 years' imprisonment, respectively, plus fines. These sentences have, however, been quashed by the Reviewing Authorities a few days ago.

6. To my amazement I learned a few days after , the 23rd June, that I was wanted by Capt.Bradbury as an "accomplice" of Nocera, of whom I was declared to be a "partner". I was called upon to give the necessary explanations to the Naples C.I.C., and had no difficulty in disproving these preposterous charges. At any rat, I presented myself to Capt.Bradbury on June 30th, who then put me under arrest throwing me into the Frattamaggiore prison.

7. I was charged wi h being a partner and an accomplice of Nocera in the commission of acts violating the Hemp Proclamation; further I was charged with: a) for interferring in the arrest of Nocera; b) for "threatening" Lt.Northrop with a lawsuit should he seize Nocera's hemp cloth; c)for impersonating a public officer of the United States by stating that I was a "member" of the C.I.C.; d)for having "escaped" after been put under arrest by Capt.Bradbury, on June 23rd.

8. I stood trial on July 8th before Maj.GEORGE S. PARLIN, at the A.M.G. Superiore Court at Frattamaggiore. The Court dismissed the charges of "being a partner" and an "accomplice" of Nocera, because of their manifest absurdity. As regards charge (a) or No. 1, the Court did not countenance it, for it was also absurd, since Nocera's arrest took place on the 24th June, the day after my partecipation in the affairs as interpreter; and, of course, I could not have attempted to obstruct an act which I did not materially take place when I was present.

that I was wanted by Capt.Bradbury as an "accomplice" of Nocera, of whom I was declared to be a "partner". I was called upon to give the necessary explanations to the Naples C.I.C., and had no difficulty in disproving these preposterous charges. At any rat, I presented myself to Capt.Bradbury on June 30th, who then put me under arrest throwing me into the Frattamaggiore prison.

7. I was charged wi h being a partner and an accomplice of Nocera in the commission of acts violating the Hemp Proclamation; further I was charged with: a) for interferring in the arrest of Nocera; b) for "threatening" Lt.Northrop with a lawsuit should he seize Nocera's hemp cloth; c)for impersonating a public officer of the United States by stating that I was a "member" of the C.I.C.; d)for having "escaped" after been put under arrest by Capt.Bradbury, on June 23rd.

8. I stood trial on July 8th before Maj.GEORGE S. PARLIN, at the A.M.G. Superiore Court at Frattamaggiore. The Court dismissed the charges of "being a partner" and an "accomplice" of Nocera, because of their manifest absurdity. As regards charge (a) or No. 1, the Court did not countenance it, for it was also absurd, since Nocera's arrest took place on the 24th June, the day after my partecipation in the affairs as interpreter; and, of course, I could not have attempted to obstruct an act which I did not materially take place when I was present.

9. The Court tried me on charges (b), (c) and (d), respectively; 2, 3 and 4, and after finding me guilty on all of them, sentenced me to one year's imprisonment on each of charges 2 and 3, to run concurrenctly, and one year on charge 4. Furthermore, it ordered the forfeiture of the bail of 500 thousand lire which I had given for my temporary release, as I had to undergo an operation for strangled hernia. (The operation was not executed, as the Court suddenly ordered me to stand trial.)

10; Against this sentence, I appealed to the Reviewing Office at Naples, which has modified the sentence as follows: Charge 4 is quashed. The order forfeiting the 500.000 bail is set aside, and the money is to be returned to me. Charges 2 and 3 are affirmed, but are reduced tosix month's imprisonment for each them, to run concurrently.

11. Whilst this reduced sentence is gratifying for me, for it vindiciates my honour in part, still it is not altogether

(902)

satisfactory. I demand a full and unconditional acquittal. JUST AS THERE WAS NO TRUTH WHATSOEVER IN THE ALLEGATION THAT I HAD BEEN PUT UNDER A BREST AND ESCAPED, (and the Reviewing Authorities have accepted my plea on this score), SO IS THERE NO TRUTH WHATSOEVER IN THE ALLEGATIONS CONTAINED IN CHARGES 2 and 3.-- WHICH I EMPHATICALLY IMPUGNED UNDER OATH AT THE TRIAL.

12. These charges were hastilly concocted with a view to implicate me in an affair in which I had had no guilty partecipation. As I have demonstrated in my brief of July 8th, there was no truth whatever in the statements made against me by Lt.Northrop. If it is a question of veracity between that gentleman, an officer of the U.S.Army, and myself, an Italian gentleman of advanced age, with a clean record, and with a political past of the best, the issue for a decision must rest on the matter of plausibility of the charges ub question.

13. Since I had no interest whatever in the controversy between Nocera and the Hemp Control Office, it is not possible that I should have incurred in the offences with which Lt.Northrop charged me. And, in fact, this gentleman, who has visited me several times since my conviction, has expressed his regret at what had befallen me, for he was how convinced that I have been involved in an affair which did not concern me.

14. This affair has a political background. The charges against me were inspired by some Italian officials of the Hemp Control Office, who view m with disfavour because of my anti-Fascist activities. These Italians, ex-Fascists, who are now posing as friends to the Allies, have duped the Military Authorities in prosecuting me, in the hope that I might be eliminated as a contributing factor in the Fascist cleaning up campaign now being executed. It will perhaps interest you, Sir, to learn that I am an anti-Fascist of long standing, having been the object of incessant persecutions on the part of Fascism, which sent me to the "confino" for five years for "anti-Fascist activities" and for "having been pro-Ally" and "pro-American". 71

15. Judicially and politically the sentence imposed on me in

13. Since I had no [illegible] it is not possible [illegible] Nocera and the Hemp Control Office, it is not possible [illegible] should have incurred in the offences with which Lt.Northrop charged me. And, in fact, this gentleman, who has visited me several times since my conviction, has expressed his regret at what had befallen me, for he was how convinced that I have been involved in an affair which did not concern me.

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15. Judicially and politically the sentence imposed on me is injust. Even the reduction of the penalty to six months is unsatisfactory. I ASK FOR A FULL ACQUITTAL. I HAVE A RIGHT TO CLAIM THA T I RECEIVE COMPLETE VINDICATION, MATERIALLY AND MORALLY. It is inadmissible that a citizen should be convincted os the strength of "vague" and "insufficient" evidence. This is a flagrant violation of the Roman dictum: "In dubis pro reo". As a citizen of the land of Cicero, I cannot be satisfied with the nation that one should be convicted on the strength of such evidence. Our Italian law prescribes that for such cases there should be at least a conditional acquittal. It's the Scoth "NOT PROVEN"---- which is Roman.

16. I trust, therefore, in the high sense of justice of the members of the Allied Control Commissione that so patent an injustice as that which has been perpetrated on an unoffending Italian anti-Fascist be remedied at once, thus setting me free without loss of time; for I have suffered unjustly and innocently

899

for nearly two months now. I am somewhat advanced in age, and not too well in health, and I cannot stand a prison sentence. But I am entitled to be set free, for these is no legal ground to hold mefurther. THE QUASHING OF CHARGE 4 AUTOMATICALLY CARRIES WITH IN THE CRUMBLING OF CHARGES 2 AND 3."Ubi nihil, nihil".

Believe me to be, Sir

Your obidient servant

/a/ VITO VINCENZO LATTARULO

70

4843/1

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

898

L/3029 22 September 44

Subject: GAUDINO Salvatore.

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

1. Attached hereto are the files in the case of the above subject together with a copy of a letter from the Regional Commissioner, Reg. IV.

2. Since this case was tried by an A.M.G. Court and since said decision on review was rendered by the Chief Legal Officer, it is thought that the matter should be submitted to the Legal Sub-Commission for decision.

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

ETK/pv

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

ACC/4083/1/L

22 Sept. 44

Subject: Case of IMPROTA Giuseppe

To : Regional Commissioner, Region IV.

1. With reference to your letter of 19 Sept. 44 (ref: R/2375) in regard to the above case.

2. Giuseppe Improta was rightly convicted of a serious black market offence. The case was reviewed by this H. Q., when the conviction and sentence were affirmed.

3. It is no doubt unnecessary to point out that the Rules of Procedure lay down very definite and adequate directions to be followed in cases when prisoners fall ill while serving a sentence of imprisonment. However, I have today written a letter to the Regional Legal Officer, Southern Region, asking that the Public Safety authorities concerned be requested to investigate the truth of this alleged illness and to take any step they may deem necessary, if it has not already been brought to their attention.

4. It is not proposed to re-consider this case.

RICHARD H. WILSON
Colonel, GAO
Chief Legal Officer.

89

0377

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

896

ACC/4083/1/L

22 Sept. 44

Subject: Case of IMPROTA Giuseppe

To : Regional Legal Officer, Southern Region.

1. This is to advise you that the letter from R. C. Region IV, copy attached, in regard to the above case has been formally brought to the attention of this H. Q.

2. You will note that it is alleged that Giuseppe Improta is suffering from a serious illiness. No doubt this has already been brought to the attention of the Public Safety authorities of Southern Region in accordance with the normal procedure, but in any case this comment shall prove of interest.

3. It is our opinion however that no more generous treatment or preferential consideration should be accorded to this prisoner than is allowed by the normal Rules of Procedure.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

Encs: 1 Copy of letter RC
Region IV to H. Q. ACC

2. Copy of Letter to R. C. Region IV.

See 1940

67

Copy to file

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

895

/rm.

21 Sept. 44.

ACC/4083/1/L.

SUBJECT : LATTARULO Vito.

TO : Regional Legal Officer, Southern Region.

Returned herewith the record in the above case.

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

Enc. I Record.

See 880

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub -Commission
APO 394

WGB/jpl

894

AOC/4083/29/L

21 Sept. 44

Subject: Pending General Military Court Cases

To : Regional Legal Officer, Southern Region.

1. In reply to your letter ref: L-3046 of 16 Sept. 44

2. Re VENDITTI Bartolo- As arranged, Major Bamblet and Captain Dawson have been asked to send to you any papers or information that they may have in regard to this case-copies of letters enclosed.

3. Re CAROFALO Michele- Efforts to trace this case at this H.Q. have proved fruitless. It is suggested that you might possibly get some information from the INSALATA case. Failing that it is agreed that the procedure that you suggest should be adopted.

4. Regarding the case of TORINO Francesco and LUBRANO Michele it is agreed that the procedure you suggest should be followed.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer

Encs: Letter to Major Bamblet (copy)
Letter to Capt. Dawson (Copy).

Copy to 4083/1 file.

63

0380

Legal 893

4083/11

SUBJECT : Appeals

TO : CLO HQ ACC

FROM : REGION V

R5/511/14/C

21 Sep. 44

1. This case was heard on 26 June and appeal was forwarded to ACC on 27 July.

2. The papers were received on 20 Sep. from PLO Campobasso and Foggia.

3. There is no indication on Form 8 or 11 of the result of the appeal.

4. May the decision on appeal be entered.

For the Regional Commissioner

J. L. WILLIS
Lt. Colonel,
RLO

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Note

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

20 Sept. 44

892

ACC/4083/1/L

Subject: Receipt of material.

To : Southern Region (Regional Legal Officer)

Receipt is hereby acknowledged of one package delivered in person by Driver, O. N. Stephens.

Signed by Bryce

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

4083/1

891

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

20 Sept 44

L/3029

19 September 44

Subject: Case of PALUMBO Francesco et al.

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

869

1. Reference is made to your communication ACC/4083/1/L, 14 September 1944, relative to the above subject.

2. I am mailing under separate cover the seven exhibits referred to in your communication.

L. F. Dawson By E. T. Kerr
L.F.DAWSON,
Lt.Col., G.L.,
Regional Legal Officer.

ETK/pv

6632

40834

Legal

(890)

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV
APO 394

R/2375

19 September 1944

SUBJECT: GIUSEPPE IMPROTA

TO : Executive Commissioner
Headquarters, Allied Control Commission

Monsignor Carroll, of the Vatican, and the Bishop of Pozzuoli have talked to me about the case of Giuseppe IMPROTA, sentenced by AMG court in Naples. They state IMPROTA merits clemency because of his serious illness.

Charles Poletti

CHARLES POLETTI
Colonel
Regional Commissioner

HEADQUARTERS
20 SET 1944
A.C.C.

See 896

See 897

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

4083/1

0-7915

889

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
APO 394

L/1002

19 SEPTEMBER 1944

SUBJECT : Re Case of INTERLENGHI Pietro.

TO : Legal Sub-Commission Hq. A.C.S.
Lt. Col. CAMPBELL.

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

2. Sinde it is a case which falls within Art. 32, Par B 2 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/GG.

ENCLOSURE :

Record and Proceedings, Re a/m case.

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
APO 394

4683/1

0-2913
888

L/1002

19 SEPTEMBER 1944

SUBJECT : Re Case of Caiello Giuseppe and Caiello Ulisse.

TO : Legal Sub-Commission Hq. A.C.C.
Lt.Col. CAMPBELL.

1. Enclosed herewith are the records and proceedings in the above mentioned case.

2. Since it is a case which falls within Art.32, Par 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

ENCLOSURE :

Record and Proceedings, Re a/m case. 53

RCH/GG.

Reviewed

1. Enclosed herewith are the records and p[illegible] the above mentioned case.

2. Since it is a case which falls within Art.32, Par B2 of the consolidated Instructions for Allied Military Courts, the case is forwardef for your attention.

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

ENCLOSURE :

Record and Proceedings, Re a/m case. 53

RCH/GG.

Reviewed
Affirmed
26 Sep.

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

4083/1

D Legal

(88)

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

19 September 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 herewith the Form 8 in the case of DI CAPUA Alfredo et al for Review of Sentences. The sentences exceeded 2 years imp. and 30 days expired.

L.F. Dawson By BUT. Serr Capt.
L.F. DAWSON,
Lt.Col., G.L.,
Regional Legal Officer.

ETK/pv

Tried 7 June

HEADQ AKTEPS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

RHW/pa.
16 Sept 44.

ACC/4083/1/L.

SUBJECT : Case of Vito Vincenzo LATTARULO.

TO : The Acting Chief Commissioner.

1. Reference your memorandum of 16 Sept 1944 and enclosures.

2. This case was reviewed by Col. Behrens some time ago and the sentence was reduced to six months. Col. Behrens states as he recalls the facts that as a pure question of fact there was clear evidence that the accused stated he was a member of the CIC and threatened Capt. Bradbury in the performance of his duty.

3. However, before submitting to you a proposed draft of reply letter I am sending for the record in order that it may be re-examined.

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RICHARD H. WILMER,
Colonel, GAC,
Chief Legal Officer.

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

JPL/jpl/ (885)

ACC/4083/1/L

18 Sept. 44

Subject: Record of Proceedings.

To : Regional Legal Officer, Region 5.

1. In accordance with our letter of 4 Sept. 44. 4083/1/L. addressed to RLO Southern Region (copy to your office) the record of the proceedings against MERADANTES Raffaele and DeBONIS Domenico are forwarded herewith.

2. The case has been reviewed and the convictions and sentences affirmed.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

56

0390

SUBJECT : Summary Courts

TO : CLO HQ ACC

FROM : REGION V

Legal S. C

File

R5/511/14/A

16 Sep. 44

1039

1. Ref. telephone Conversation CLO-RLO, 7 Sep. 44.

2. Herewith a copy of the proceedings for your information as requested.

LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

HEADQUARTERS
A. C. C.

For the Regional Commissioner

J. L. WILLIS
Lt. Colonel,
RLO

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483

EMILIOZZI EMILIO

CHARGE - Violation of Proclamation I Art. 5 Sect. 27
In Aquila on 2 Sep. 44 wrongfully did have in his possession certain property of the Allied Forces: namely 2 tyres.

PLEA - N. G.

PROSECUTOR - Major Mighall

DEFENDER - Avv. Lopardi Emilio

EVIDENCE

FIRST PROSECUTION WITNESS.

Lt. Col. H. Middlewood R.A. sworn :

" Regional Agricultural Officer. I sep.with Capt. Lockwood. Examined accused's car. Looked at the tyres. I found 2 jeep tyres (produced in Court). Both marked Military. Goodyear type. I asked accused to account for the tyres. He first said he had borrowed them from another farmer. I asked if the other farmer could account for them. He then said he had a letter at house accounting for the tyres. He was arrested. I have no doubt there are military tyres.

XXed
He said a letter a home explaining why he had the tyres.

PROSECUTION RESTS

FIRST DEFENCE WITNESS

Emiliozzi Emilio sworn :

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" These tyres belong to the Commune of Ururi. The Commune lent me the tyres when I needed them, and I lent tyres to the Commune why they needed them. I came to Aquila to transportation Office of Region V because I had done work for them. I had a permit to come here. I came here twice with the knowledge of British or American Officers. I came the second time when I had to curtail my visit previously because my father had died. I was here on 13 Aug. On the second time I came for the same reason. I spoke with Lt. Holston.

XXed
I showed this paper to Major Mighall to explain possession of the tyres. (ExD1) I showed it to Major Mighall before my release on bail. I did not mention any other document to Major Mighall. I heard Col. Middlewood say in Court that I said these tyres belonged to another farmer. I have made 3 explanations (1°) they belong to another farmer (2°) I have a permit (3°) they belong to the Com

mune. All are correct. Col. Middlewood asked me where I had the tyres from. He saw they were military tyres and asked for the permit. I said I had no permit. I had forgotten it. I said two tyres belonged to a man working for the Commune and 2 tyres to me. This man worked for the Commune. We lend each other tyres when we need them. These documents do not spedify any particular tyres. These tyres have only been on the vehicle a short time. We have Italian tyres. We rarely use these particular tyres and then for long journeys. I said 2 tyres belonged to my friend and 2 to me. These military tyres belonged to the Commune.

By the Court. I rely on this document (ExD2) to prove that the tyres belong to the Commune. The paper permits their use for transport of food for the Commune. When I came to Aquila I was not transporting food for the Commune of Ururi. I came here to see about work I had done for AMG. I was working for AMG so I thought I was allowed to use these tyres. I agree that ExD1 does not refer to these tyres. At the end of Aug. the 4 tyres on my car belonged 2 to me 2 to the Commune. I told Col. Middlewood they belonged to a farmer because he works for the Commune. I met Capt. Robinson and asked if he remembered ExD1. I had forgotten it when I spoke to Col. Middlewood. Capt. Robinson said he remembered it.

SECOND DEFENCE WITNESS

Lt. Houston sworn :

" Accused has worked for transportation of Region V. At end of Aug. he presumably came about a contract for salvage of wreched trucks.

THIRD DEFENCE WITNESS

Capt. Mahony sworn :

" Accused worked at repairing cars for Region V. I believe he is still working on a car at Campobasso for Region V.

Case adjourned at request of defence to call further witness.
16 Sep at 0900 hrs.
Case resumed on 16 Sep.

FOURTH DEFENCE WITNESS

Cariello Antonio sworn :

" Functionary of Commune of Ururi. I recognise one of the tyres as mine. The other appears like mine. It is difficult to distinguish as they are all alike. I am the owner of a motor tricycle. I loaned the tyres to the accused. The Commune gave the tyres to me. I put the tricycle at Commune's disposition. I am in charge of the tax collection of the Commune. The Commune found these tyres abandoned in a dried up river. The Commune had the authority to have these tyres. This is the authority (ExD2). I say the tyres are well used. The tricycle is used for the transport of food for the Commune. I lent the tyres but I didnot ask the reason. I agree that according to the permit the tyres could only be used for the transport of food. I lent the tyres 10 or 15 days ago. I thought it was for one day only. I agree that it is illegal to use these tyres except for the transport of food. The accused lent 2 tyres to the Commune. This tricycle has only 3 wheels. This was above the other

2 tyres were acquired. He has not lent any tyres since the end of June. This is the first time he has borrowed these tyres. No one gave me authority to lend these tyres. I got them from the Segretario of the Commune. The latter knows accused was using the tyres. The secretary has told me but this is since the case started. I was no hurry to get these tyres back as the tricycle was being repaired by the accused. This was a private arrangement. I was not interested in when I got the tyres backs, he could have taken them anyhow. Accused hinted he had taken the tyres. This was before he took them and he did not say where he was going. I now realise accused was using the tyres in Aquila for a purpose not authorised. Accused worked for Commune and Allied Forces.

FIFTH DEFENCE WITNESS

De Benedetto Vincenzo sworn :

" Communal Secretary of Ururi. Cariello had a tricycle. It was used for communal purposes. We took an interest to provide tyres. The Commune provided 2 tyres. I don't know who provided the third. Cariello also used the truck for his own use. Cariello is a farmer and also a tax collector. He also did short hauls for the Commune. The tyres were for the essential needs of the Commune. I gave accused permission to have these tyres on 23 June. No, I asked AMG to give these tyres to Cariello. They were to be used for the transport of food. I don't know when I gave accused permission to use these tyres. I don't remember the date but it was end of Aug. or beginning of Sep. Accused did not say for what purpose. He always works for the Commune so I did not ask. I agree these tyres could only be used for transporting food for the Commune. I did not know accused had the tyres until this case started. I did not know who had the tyres or where they were.

SIXTH DEFENCE WITNESS

Giorgio D'Angelo sworn :

" I was present with accused and Lt. Col. Middlewood. I was interpreter, He saw the car. He asked to see it. He saw Army tyres and asked where accused got them. Accused said 2 were his, permit from Capt. Robinson, the other 2 loaned by Cariello. Accused came here about a contract.

CALLED BY THE COURT

SISgt. Johnson sworn :

" I am NCO 1/c car pool. I know about tyres. I have examined these tyres. The walls of the first tyre are broken in. The tread is good. The second tyre is good but the tread is worn. I could not say that these tyres were in a bad condition at the end of June having regard to Ex82. These tyres have 80% and 70% use respectively now under reasonable wear. I have noticed the cut in one of them.

FINDINGS OF FACT

1. The accused was in Aquila on 1 Sep. with a car. This car had 2 tyres which were Allied property.

2. These tyres are almost new, and could not possibly be the ones referred to in ExD1 as " old and dannaged " in Apr. 44.

3. ExD2 purports to authorise the Gommne of Ururi to use 2 Allied Military tyres for the transport of food.

4. The accused on his own admission was in Aquila to, see about work done for AMG.

5. The accused attempted to explain possession of the tyres to Lt. Col. Middlewood and Major Highall either using the reason contained in or showing ExD1.

6. The accused took the tyres without anyone's knowledge, and used them for his own purposes.

7. The two tyres are not those referred in ExD2.

8. The accused is not a truthful witness, and I don't believe him. He now relies on ExD2.

VERDICT - Guilty.

SENTENCE - Six months imprisonment.
Car and tyres confiscated.

- - - - - -

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

881

ACC/4083/1/L. /ap.

16 September 1944.

SUBJECT : Case of TOMARELLI Quadrio.

TO : Regional Legal Officer, (Thru RC) Region IV.

1. The case of TOMARELLI Quadrio and others is returned herewith with decision on review endorsed.

2. In view of the date of the offense and the appeals raised by the accused no satisfactory review is possible. There will therefore be a new trial in all cases except that of MODELLI Ezio. The trial can be before the same judge.

3. At the new trial the accused should either plead not guilty or at least evidence should be called to show whether they did in fact deliver their weapons voluntarily and if so the general circumstances.

4. This directive is not intended to be interpreted as an order to impose lower sentences, but is simply so that the reviewing authority can obtain a truer picture of the facts.

5. As the accused have already been in prison 3 months please complete the new trial and forward the record for review with a minimum of delay.

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

52

I Incl.

copy of this letter sent to R.L.O. Fogg Venezia 27 OCT. 44 Col. Lotelli

408

880

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

L-3046

16 September 1944

See 874

SUBJECT: Pending General Military Court cases.

TO : C.L.O., Legal Sub-Commission, A.C.C., HQ.

1. I am endeavouring to bring to trial at the earliest possible date a number of cases which I find are still pending here.

2. The attached copy of a report from 1st Lt. Bernard D. Cahn has been submitted to me.

3. (i) The case mentioned in para 1(a) is set down for trial.

(ii) With regard to the case mentioned in para 1(b) I shall be glad to have any assistance you can give me in the matter of tracing the papers relating thereto. Perhaps Lt. Sabatino now in Rome can throw some light on the matter. If and when the case file is traced it may not be possible to obtain the attendance of witnesses. Should this happen I would propose to withdraw whatever charge there may be against the accused and thereupon set him at liberty without prejudice of course to his re-arrest at any time.

(iii) The case mentioned in para 1(c) will be dealt with as stated therein.

(iv) Perhaps Lt. Sabatino may be able to tell us something about the case mentioned in para 1(d). This accused appears to have been thrown into prison by some French Authority or another and then forgotten. However he is still on our hands and something must be done to bring the matter to finality. If no papers can be traced I propose to withdraw the charge against him and to release him without prejudice to his re-arrest should it later become possible to try him.

(v) I propose to bring the accused in the case mentioned in para 1(e) before the Court in due course and then to ask the Court to make a finding as to his mental condition.

(affirmative) (Vandetti) (Garofalo) 51 (TORINO)

(879)

(Forward)

Should it be found as a fact that he is not in a condition to plead and to understand the proceedings against him the appropriate order will be made.

(vi) I propose to instruct Lt. Cahn in terms of his suggestion in regard to the case mentioned in para 1(f).

(Subrand)

4. Please inform me whether you are in agreement with the courses I suggest in paras. 3(ii),(iv), (v), and (vi).

L. F. Dawson

L.F. DAWSON,
Lt.Colonel, G.L.,
Reg.Legal Officer,
Southern Region .

LFD/mo

Encl-
1 copy of a report
from 1st Lt.B.D. Cahn.

50

see para 3(v) file 880

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

878

16 September 1944

SUBJECT: Pending General Court case.

TO : Lt.Col., L.F. DAWSON, R.L.O.

1. According to my records, I have on my desk the following cases for prosecution before a General Military Court, or for other disposition:

a. AMG vs Affinito Giuseppe
The trial of this case will start, pursuant to present arrangements, on 21 September 1944.

b. AMG vs Venditti Bartolo.
We have no records whatsoever with respect to this matter other than a telegram from 8th Army Rear apparently in reply to a request from Lt. Sabatino the then Prosecutor of the General Court for the attendance of witnesses. The prisoner is at Poggioreale Prison. Inquiries of 61 SIB, 69 SIB, and CID (A) have uncovered no information. We have been advised by AFHQ (through 69 SIB) that papers in this case are in the possession of Captain Dawson of 77 SIB, 8th Army CMF. It is understaod that 77 SIB is in the Florence Area. Attempts will be made to obtain the papers from Captain Dawson but it is respectfully suggested that on your trip to Rome the matter be brought to the attention of ACC, HQ. Also, Lt. Sabatino former Prosecutor may be available in Rome for questioning as to files etc.

48

c. AMG vs Trombetta Giuseppe
AMG Vs Trombetta Pasquale
This case will be presented to a General Court on 21 September 1944 accompanied by the Prosecutor's motion for Nolle Prosequi, it being my opinion that a complete

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The trial of this case will start, pursuant to present arrangements, on 21 September 1944.

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c. AMG vs Trombetta Giuseppe
AMG Vs Trombetta Pasquale

This case will be presented to a General Court on 21 September 1944 accompanied by the Prosecutor's motion for "Nolle Prosequi" it being my opinion that a complete defense (self defense) exists and that the facts do not justify a formal trial.

877

d. Garofalo Michele.

The wife of the above has just advised us that the prisoner has been detained for some months at Poggioreale, after arrest by French authorities, for murder. We have no record of the case and are now making a search to discover the basis of the case and evidence thereon.

e. AMG vs Torino Francesco.

Defendant has been arrested for murder but is apparently a sexual pervert and insane. He is now under observation at the Psychiatric Hospital and there is some doubt whether he will be tried.

f. AMG vs Lubrano Michele.

Defendant arrested for murder of an American Soldier during a fight provoked by the soldier. Defendant released by CID on a report, signed by Commanding Officer CID, that the case be classified as justifiable homicide and case closed. I am of the opinion case should be presented to the next General Court with a motion for "nolle prosequi".

2. Upon analysis of the above, it will be seen that there are at most four cases to be tried. Of those one will be tried next week, on two we are now searching for information, and the fourth will probably not be brought to trial.

/s/Bernard D. Cahn.

BDC/mo

/t/BERNARD D. CAHN,
1st Lt., S.R.

47

CID, that the case be classified as justifiable homicide and case closed. I am of the opinion case should be presented to the next General Court with a motion for "nolle prosequi".

2. Upon analysis of the above, it will be seen that there are at most four cases to be tried. Of those one will be tried next week, on two we are now searching for information, and the fourth will probably not be brought to trial.

/s/Bernard D. Cahn.

BDC/mo

/t/BERNARD D. CAHN,
1st Lt., S.R.

47

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

876

WEB/pm.
15 Sept 44.

ACC/4003/4/L.

SUBJECT : Case of GENIO Domenico.

TO : Regional Legal Officer (thru RC) Region 4.

see 264

1. The record in this case is returned herewith with decision on review indorsed. Please acknowledge receipt.

2. There is no doubt on the fact that the car in question was not AMG property. The conviction and sentence in the third charge are therefore quashed. The car, if available, should be returned to the accused though it can of course be requisitioned.

3. On the 4th charge the sentence is in the circumstances excessive.

4. The accused will be released forthwith, but in view of his history he should be handed over to the F.P.S. for investigation before he is set at liberty.

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

46

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

RRW/pm.
15 Sept 44.

ACC/4083/1/1.

SUBJECT : Case of partisans (D'Onofrio and others).

TO : Regional Legal Officer, Region 8.

1. Reference your RVIII/12/3008 dated 9 Sept 1944.

2. It appearing that the acts occurred after occupancy and posting of Proclamation No.1 the Court under the circumstances of the case had jurisdiction to try the cases as a proclamation offence.

3. The case, however, involved principally the attack of one group of Italians on another group of Italians. Generally I think it better that those cases be tried by Italian Courts under Italian Law. I would not want to lay down any specific binding directions in that regard, as admittedly a case of that type would arise where the more rapid action of an AMG Court will clear the atmosphere more quickly and at times with greater justice.

Encl: 1 Record

RICHARD H. WILDER,
Colonel, GSC,
Chief Legal Officer.

40881

Legal (874)

SUBJECT : Appeals

TO : CLO HQ ACC

FROM : REGION V

R5/551/14/CH

15 Sep. 44

1. Herewith appeals by ALBANESE VINCENZO and FRISCO GIUSEPPE.

2. The evidence appears to be sufficient to support the conviction and the sentences appear to reasonable.

3. I recommend that the convictions and sentences be affirmed.

For the Regional Commissioner

J. L. WILLIS
Lt. Colonel,
RLO

551

44

File

(873)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L.

RHB/pa.
14 Sept 44.

SUBJECT : Case of CONTI Armando et al.

TO : Regional Legal Officer, Southern Region.

1. Herewith the record in the case of CONTI Armando et al.

2. It is noted that the maximum penalty imposed was a fine of 50.000 lire or four years imprisonment in default. Since the fines have all been paid the point regarding the prison sentence does not arise.

3. It has been ruled therefore that review of this case is within your jurisdiction .

RICHARD H. WILMER,
Colonel, GAC,
Chief Legal Officer.

53

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

872

/rlp.

ACC/4083/1/L.

14 September 1944.

SUBJECT : Case of BRANDI Giuseppe et al.

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

1. The record in this case is returned herewith with decision on review entered. Please acknowledge receipt.

2. The accused committed the offences of which they were found guilty and the convictions are therefore affirmed.

3. There is, however, no doubt that the offences were largely inspired and most actively encouraged by the two American soldiers. The judge says that in their statements the accused admit approaching the soldiers and he therefore did not treat the soldiers as "agents provocateurs." This in the circumstances of this case is taking a very narrow view. Having regard, particularly to the fact that the soldiers were not present to be cross-examined at the trial, I do not consider it satisfactory to impose heavy sentences on this occasion.

4. The decision on review is that the sentences will read as follows:

De Sole Salvatore	- Imprisonment	for	2	months;		
Macchietti Italo	"	"	3	"		
Brandi Giuseppe	"	"	12	"	(6 mos.	suspended);
Bosco Neiric	"	"	"	"	" "	"
Cannas Carlo	"	"	"	"	" "	"

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

1 Incl.

42

file

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

871

ACC/4083/1/L.

RHW/ap.
14 September 1944.

SUBJECT : Case of CISALE Guglielmo.

TO : Regional Legal Officer, Southern Region.

859

795

1. Reference your letter dated 11 Sept. 44 and with further reference to letter from this H.Q. ref.4083/1/1 dated 24 Aug 44.

2. It is ordered that a new trial be held in the case of CISALE Guglielmo.

3. The new trial will be according to the normal A.M.G. procedure. It should be before a new judge and should be held at your earliest convenience.

4. The record is returned to you herewith, the decision on review having been altered in accordance with Para 2 above.

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

I Incl.

41

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 534, U.S. Army

870

14 September 44

Subject: Case of MARTINELLI Giovanni et al.

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

860

1. Reference is made to your communication ACC/4083/1/I, 11 September 1944. Receipt of the above mentioned case is acknowledged.

Capt
for
L.F. MARSON,
Lt.Col., G.I.,
Regional Legal Officer.

60

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

869

/rm.

ACC/ 4083/1/L. 14 Sept. 44

SUBJECT : Case of PALUMBO Francesco et al.

TO : Regional Legal Officer, Southern Region.

1. Under cover or your letter ETK/pv dated 4 Sept 44, the proceedings against Palumbo Francesco et al (legal file 3910) was forwaded to this H.Q. for review.

2. The following exhibits, which were ordered confiscated by the Court and described as follows

#N° 1.	One half of a 1000 lire note. Produced by	Parlato
#N° 4.	Stone block for back of 1000 lire note.	do
#N° 5.	Stone block for front of 1000 lire note.	do
#N°25.	Book containing proofs of 1000 lire notes.	do
#N°26.	Four pieces of broken zinc plates.	do
#N°27.	Yellow and white paper.	do
#N°29.	Paper containing proofs of 1000 lire notes.	do

are requested for use in connection with the review of the above mentioned case.

3. Your prompt attention will be appreciated.

RICHARD H. WILMER,
Colonel, CMC,
Chief Legal Officer.

39

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L. /ap. 13 September 1944.

SUBJECT : Jurisdiction of Summary Courts.

TO : Regional Legal Officer (Thru RC) Region VIII.

1. In reply to your letter reference RVIII/19/3008 dated 8 Sept 44 attached to the record of proceedings in the case of LAZZARI Giulio.

2. The hearing of charges against an accused by a Military Court constitutes a case irrespective of the number of offences charged.

In respect to such a case the Court's jurisdiction is set out by the Proclamation, the Summary Military Court having power to impose a sentence of imprisonment for not more than one year or a fine of not more than 50,000 lire or both.

3. Accordingly, in the case of LAZZARI Giulio the sentence on review is reduced to 6 months imprisonment on each charge, said sentences to run consecutively totalling 1 year imprisonment.

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

38

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

(367)

ACC/4083/1/L

13 Sept. 44

Subject: Case of TIZZONI Giuseppe

To : Regional Legal Officer, Region IV.

1. The record in this case is returned herewith with decision on review endorsed. Please acknowledge receipt.

2. I have discussed the case fully with Lt. Col. ELDER who advised as:-

(a) that the case was one of the first of its kind in Rome and the sentence was imposed soley as a deterrent:

(b) that he considered the sentence excessive and that a proper punishment would be a year in prison or an equivalent fine:

(c) that he considered the medical condition of the accused to be such that he should not serve a prison sentence:

(d) that he made this recommendation to the RLO.

3. I have, therefore, with Lt. Col. ELDER's full approval, suspended the remainder of the prison sentence.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer

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

(66)
0-7393

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
APO 394

4083/1

L/1017 13 September 1944

SUBJECT : Re cases of Serra Antonio and Creti Mario

TO : Legal Sub-Commission, Hdq, A.C.C.
Lt. COLONEL CAMPBELL.

1. Enclosed herewith are the records and proceedings in the above mentioned cases.

2. Since these are cases which fall within Art. 36 Par. B2 of the consolidated Instructions for Allied Military Courts, the cases are forwarded for your attention.

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

RCH/GG

Enclosure :
Records and proceedings Re above mentioned cases.

36

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

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

4083/1

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

L/A/02

12 Sept. 1944.

SUBJECT : Re case of Genio Dominic fu Giuseppe.

TO : Legal Sub-Commission, Hdqs, A.C.C.
LT. COLONEL CAMPBELL.

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

2. Since this is a case which falls within Art. 32 see Bé 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.

ENCLOSURE :

Record and proceedings Re a/m case.

35.

RCH/AC.

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

4683/1

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

0-7317
863

L/A/02 12 Sept. 1944.

SUBJECT : Re: case of IANNI Pasquale.

TO : Legal Sub-Commission, Hdqs. A.C.C.
Lt. Col. Campbell.

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

2. Since it is a case which falls under Article 36, Par. 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.

ENCLOSURE : Record and proceedings Re above mentioned case.

3

RCH/AC.

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4082/1/L.

/ap.
11 September 1944.

SUBJECT : Case of CALONE Carmine.

TO : Regional Legal Officer, Southern Region.

1. I agree with the observations of Capt. Gold on this case.

2. The convictions and sentences on charges 1 and 2 are quashed. It is assumed that the Allied currency was confiscated, and therefore the sum of 15000 lire will be repaid to the accused who will be released forthwith.

3. The record is returned herewith.

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

I Incl.

file

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L.

/ap.

11 September 1944.

SUBJECT : Case of Marinelli Giovanni et al.

TO : Regional Legal Officer, Southern Region.

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

2. The convictions and sentences are affirmed except in the case of FORNARO Giovannina whose sentence is reduced to 3 years imprisonment as she was in a different category from the other accused.

3. There is no petition from FORNARO with the record. If one is received the decision on review will require reconsideration.

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

1 Incl.

4083/1

859

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

11 September 44

Subject: Case of CISALE Guglielmo.

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

1. Reference is made to your communication ACC/4083/1/L, 24 August 44, relative to the above subject.

2. I am advised this day that the witnesses are available to testify upon a retrial of the attached case.

L. F. Dawson By E. T. Kerr Capt.

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

ETK/pv

4083/1 ✓

458

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

9 September 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 herewith the Documents listed below relating to Review of Sentence. In this case the sentence exceeded 2 yrs. imprisonment.

Legal File No.	Name	Court	Date of Trial	Document
3976	Triunfo Vittorio	Sup.Ct.7	4 Sept. 44,	Appl., Form 8.

L. F. Dawson By E. T. Kerr Capt

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

ETK/pv

30

1

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

857

ACC/4083/1/L

9 Sept. 44

Subject: Case of PISCITELLI Luigi

To : Regional Legal Officer, Southern Region

1. Enclosed herewith please find a document relating to the above case. The record of the proceedings were sent to your office with our covering letter dated 7 Sept 44. ACC/4083/1/L .

2. Please join the document with the remainder of the record.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

Enc: 1 Document.

See 847

0421

H.Q. P.B.S. xxll

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

WER/jpl

856

ACC/4083/1/L

9 Sept. 44

Subject: Case of IERVERLINO Aniello

To : Regional Legal Officer, Southern Region.

See 844

1. The record in this case is returned herewith with decision on re-review endorsed. Please acknowledge .

2. In view of the medical evidence and information received from Col. SIMPSON, I have decided that 2 years of the sentence shall be suspended.

RICHARD H. WILMER
Colonel
Chief Legal Officer.

Copy to : Lt. Col. GORDON SIMPSON
J.A.G.D.
H.Q., P.B.S.

28

OR

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

MJG/jpl

455

ACC/4083/1/L

9 Sept. 44

Subject: Case of MARINO Ciro et al.

To : Regional Legal Officer, Southern Region.

1. The preperation, trial and record of this case are unsatisfactory.

2. The charges were incorrectly framed.

3. The trial judge himself did not know the nature of the charge under which the defendants were being tried until the prosecution had rested. He said "the exact nature of the charge could not be ascertained until the end of the prosecution's case."

4. Counsel for the defense when filing their application for review did not even then understand the anture of the charge under which their clients were convicted. The applications refers to unlawful possessión whereas the charge was "stealing."

5. The evidence does not sustain the charge of "stealing" as to any of the defendants.

6. A case of "wrongful possession" is however made as against the defendant MARINO Ciro and his conviction and sentence are affirmed.

7. As to the three remaining defendants, ORO Vincenzo, COSTANZO Giuseppe and TROIANIELLO Eduardo the evidence can be said to make out a case only of "assisting in" the wrongful possession of the defendant MARINO Ciro and their convictions are affirmed but the sentence of each is reduced to 6 months imprisonment.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

Encs: Record of the proceedings.

21

Legal Sec

854

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
SECTION VIII

RMA E/10/2095

9 September 1944

SUBJECT : Case of the Partisans (Minnefric and others)

TO : CLO, Legal Sub Commission, ACC.

1. Reference is to the Conversation - Col. WILSON and Col. [illegible] - on this subject.

2. The record of the case (Regional No. 185) is sent herewith.

3. It is submitted that there was ample jurisdiction for the case to be tried by an AMG Court. In essence the case is one of breach of the peace; the fact that partisans and fascist were involved is immaterial. Further the assault was on persons who had recently been released by the Allied authorities, and therefore the assault can possibly be regarded as direct defiance of Allied authority.

4. Since this is the first of these cases to come before us, we felt it should be sent to you for review, as it may be your desire to establish a policy for future guidance in similar cases, dealing with partisan disputes, which can be handled by Italian Courts.

5. It is regretted that the record has been marked before it has been sent to you.

JOHN J. [illegible],
Colonel, Inf.,
Regional Legal Officer

26

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

4083/1

853

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

8 September 1944

L/1105

SUBJECT : Case of MISANI Gabriela

797

TO : The Chief Judicial Officer
Legal Sub Commission,
Allied Control Commission

1. Your observations concerning the above matter are most enlightning and you may rest assured that they will be carefully considered at the time of the review.

2. Naturally the review in this case will receive priority treatment.

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer,

RCH/PA.

25

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

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

4083/1.

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

8 September 1944

TE/A/01

SUBJECT : Case of Bufferelli Franco.

TO : Chief Legal Officer,
Legal Sub Commission,
Allied Control Commission.

1. This is to acknowledge the record and reversal of the above-mentioned case.

2. The Provincial Legal Officer has been directed to take immediate action to effect the accused's release.

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/PA.

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

4083/1.

851

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

8 September 1944

Subject: Case of NOCERA Ferdinando.

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

843

1. Reference is made to your communication ACC/4083/1/L, 5 Sept. 44, relative to the above subject.

2. Said case will be retried within the next two weeks in accordance with the Decision on Review.

3. NOCERA has been released on 500,000 lire bail while awaiting trial.

ETK/pv

LEGAL SUB COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS

Capt. Alawson by E.T. Fery Capt.

E.F. DAWSON,
LT.COL., G.L.,
Regional Legal Officer.

23

14063

(850)

HEAD QUARTERS
ALLIED MILITARY GOVERNMENT
REGION VIII

AVIII/10/3002. 5 September 1944

SUBJECT : Case Of IAZZARI Giulio

TO : CLO, Legal Sub-Commission, AMG.

1. Herewith is sent the file of papers relating to the above case which was tried by Major D.J. Woodward, sitting as a Summary Court, at Piombino on 15 August 44.

2. You will observe that the accused was charged on two counts arising one of the same event, i.e. possession of arms and possession of Allied property, and the Court sentenced the accused on the two counts separately to a term of imprisonment exceeding one year.

3. The question arises whether the Court exceeded its jurisdiction. If the transaction is regarded as one offence then there can be no doubt the Court did so. It is however arguable that there are two entirely distinct offences and the Court is entitled to deal with each separately and to award up to one years imprisonment on each.

4. This is the first time, to my knowledge this question was raised. It is felt that it is a legal point affecting every Region and therefore one on which you should give a ruling.

5. May a ruling be given, please, on the question whether the Court, in the case, exceeded its jurisdiction?

6. Please return the papers.

JOHN WEBER
Colonel Inf.,
Region Legal Officer

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L.

RHW/ap.
7 Sep 44.

SUBJECT : Civilian Cases (GERELLI Bruno)

TO : Regional Legal Officer (thru RC) Southern Region.
(Attn Lt. BANNO')

1. Receipt is acknowledged of your letter Ref. No. 23 Prot. of 5 Sep 44 on the above subject.

2. With reference to and in further amplification of my letter reference ACC/4083/1/L of 14 Aug 44 the following information is taken from a letter written by Capt. Rutter commanding 75 Coy C.M.P. (T.C.) reference No. 75/TC/C/1/2 dated 1 Aug 44.

"On 21 July 44, at the Civil Court, CAPUA, GERELLI Bruno was charged by this unit with driving a civilian car, Bianchi No. S. 9. 53353 ROMA, which had on it two British W.D. tires, at the junction of routes 6 and 7. The civilian was remanded for Tribunal, and the case has not yet been heard."

3. From this it is presumed that GERELLI's case was in the first instance heard by the Pretora at CAPUA who remanded the case for trial by the Tribunale.

4. Will you please take action :

(a) To cause a full investigation to be made into the records of the Pretura and of the Tribunale at CAPUA to see if this case has been tried or not, and if tried to discover by what court.

(b) If the case has not been tried and the 75 Coy C.M.P. (T.C.) are still in the area, to obtain a full statement from them of all the facts of the case.

(c) In any event if the case has not been tried, to bring all possible pressure to bear on the

competent Italian authority to have this case tried without delay, - hearing such evidence as may be available from 75 Coy C.M.P.

Lt/S for
RICHARD H. WILMER,
Colonel, CAC.,
Chief Legal Officer.

Copy to : Public Safety.

File

(847)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/M/L

7 September 1944.

SUBJECT : Cases of PISCITELLI Luigi et al.

TO : Regional Legal Officer, Southern Region.

1. I have considered the new petition for review lodged by PISCITELLI in the above case which was tried in Naples on 14 April 1944. The petition claims that the court had no jurisdiction to try the case.

2. There is some doubt whether this point was raised at the trial and it was not raised in the first petition for review. Nonetheless, now that it has been raised it must be considered.

3. The material date in considering jurisdiction is the date of arrest; if the accused were not in arrest on 11 Feb 44 an AMG Court has no jurisdiction to try them since the offence was committed in territory which was restored to the Italian Government on that date.

4. The petitions for appeal state the dates of arrest as March and April 1944. There is no other document with the record which shows when or by whom the accused were arrested but all the charge sheets and official documents suggest a date shortly before 10 April 1944. One entry in the account book of the accused records a transaction in March.

5. In addition your office orally informed us that the arrest was later than the 18th March 1944.

6. It has therefore been assumed that the dates of arrest were as stated on the petitions for review. In these circumstances, the case has been re-reviewed and all convictions and sentences are annulled for lack of jurisdiction.

7. The record is returned herewith.

See 838

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

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Legal SC

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

L. 5040

7 September 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 the Form 8 and Application for Review in the case of DELLO IOIO Vincenzo et al. A fine of 50,000 lire was imposed and in default of payment of fine 4 years imprisonment. Under the terms of this sentence it would appear that jurisdiction to review lies with Chief Legal Officer.

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

ETK/pv

18

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(945)

ACC/1083/1/L.

/ap.

6 September 1944.

SUBJECT : STORTO Francesco et al.

TO : Regional Legal Officer (thru RC) Southern Region

1. I am returning herewith, with decisions on review indorsed, the extremely unsatisfactory record in the case of STORTO Francesco and others. Please acknowledge receipt.

2. In the course of the record the judge states that he found all accused not guilty of the second charge : he proceeds to sentence 3 accused to 18 months on that charge. A document attached to the record suggests they were guilty of "an attempt " whatever that may mean in the circumstances.

3. There is a large number of identical, typed charge sheets forwarded with the record. One of these has been marked and initialled by the judge : "This charge (probably the third) deleted and amended and new charge under same section substituted. See Intus." This remark means very little to me. I have, however, refrained from quashing the whole case as it is clear that 5 accused were using a military truck for an illegal purpose.

4. I have reduced the sentences on TARALLO and SCAUDO since it is clear from the record, and indeed admitted, that they played a minor part in the proceedings. It is therefore unjust that they should receive the same sentences as the others.

Signed WE B
a.l.

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

(844)

5 September 1944.

TO: The Allied Control Commission for Italy.

Gentlemen:

The case of Aniello Ierverlino, who was convicted by a superior Allied Control Commission Court on 30 May 1944 (tried before Major George Parlin at Santa Anastasia) and sentenced to 30 months confinement for illegal possession of an American pistol, has interested me largely because of responsible suggestions which have been made that this accused is a simple minded person. This is such a case as I hope will appeal to the Commission as being one in which clemency may appropriately be extended. Herewith is a letter from Dr. Domenico Nappo together with a translation of it substantiating the claim that this accused is a person of impaired mental faculties. I wonder if the unexecuted portion of this prisoner's sentence could not be consistently suspended during good behavior. The prisoner's family, which I am told is most respectable, and his past record strongly persuade that clemency may appropriately be extended in this case.

I am submitting these suggestions in the hope of being helpful to the Commission. I had communicated with Army officers familiar with the functioning of the Commission and was assured there would be no impropriety in my making these representations.

Sincerely,

Gordon Simpson

GORDON SIMPSON,
Lt. Colonel, J.A.G.D.

Value #36

File 10831.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

(843)

ACC/4083/1/L

5 Sept. 44

Subject: Case of NOCERA Ferdinando.

To : Regional Legal Officer, Southern Region.

1. Sig. Carlo Pacelli, Nocera's lawyer, called at this H.Q. today in search of information on the above case.

2. While not accepting everything he said at its face value he did say that he was told at Naples when he went to the Legal Office last Friday (1 Sept 44) that nothing could be done then as instructions were awaited from Rome.

3. A new trial was ordered in regard to Nocera (our letter acc/4083/1/L of 19 Aug. 44). The case will be tried in an AMG Court as an entirely new case and, of course, fresh charge sheets and any other necessary papers will have to be served de novo. The case should be tried as soon as is convenient to you. You do not require any further instructions from this Sub-Commission

4. Sig. Pacelli raised the question of bail being granted to Nocera while waiting his trial. This is of course entirely a matter for your office but from the documents submitted we can see no reason why the request should be granted.

RICHARD H. WILMER
Colonel, GAC
Chief Legal Officer.

PARISI ANTONINO
AVVOCATO ALLA CORTE DI CASSAZIONE
Via G. Pierluigi da Palestrina, 19 sc. A int. 2
ROMA Telef. **360-600**

Roma, ...

(942)

S.E. L' Avvocato Carlo Pacelli domanda:

RITENUTO CHE :

La sentenza Nocera Sarno è stata annullata e lasentenza è stata resa di pubblico dominio si domanda:

Quale è la nuova procedura per il nuovo dibattimento ordinato dalla Corte Superiore?.=

Sarno è stato esacrcerato ma dato l'annullamento totale della sentenza anche il Nocera dovrebbe subire le stesse sorti o per lo meno gli si può consentire la liberazione provvisoria?

A chi domandarla?.= dal momento che ancora non vi sono istruzioni a Napoli?. =

Si potrebbe anche prstare una forte cauzione .=

Il nuovo processo si farà a Napoli o a Roma? avanti gli stessi Giudici?.=

Chi deve dare questi ordini, sono stati mandati istruzioni?.=

dalla Corte Superiore?.=

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Il nuovo processo si farà a Napoli o a Roma? avanti gli stessi Giudici?.=

Chi deve dare questi ordini, sono stati mandati istruzioni?.=

4083/1

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

N.23 Prot. 5 September 1944

SUBJECT: Civilian Offences.

TO : CLO, Legal Sub-Commission, HQ; ACC.

1. Reference is made to your letter N°ACC/4083/I/L dated 14 August 1944.

2. An examination of the records of the Italian Courts of Naples and Capua does not reveal that any case concerning GERELLI Bruno has ever been referred to the Italian Authorities for trial.

For the Regional Legal Officer:

Carl C. Bannò
1st. Lt. A.C.
Officer i/c Italian Courts

CCB/ga

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

341

WEB/pa.
4 Sept 44.

ACC/4083/1/L

SUBJECT : Cases of BARGAGLI EUGENIO and others.

TO : MLG Region 8 .

See 830

1. I have considered the processi verbali in the following cases :-

BARGAGLI Eugenio
CRIVELLI Anna
BIAGIOLI Omero
RUSTICCI Tommaso
PUCCI Mario.

2. I have decided that it would not be proper in any of these cases to proceed with any charges except for possession of arms etc. contrary to Proclm 1 Art.IV Para 5.

3. The reasons for this decision are :-

(a) Crivelli and Rusticci have committed no offence
(b) Bargagli was fully justified in shooting the soldier and would undoubtedly be acquitted by any AMG Court.
(c) It is more difficult to determine whether Biagioli was justified in shooting. It is possible that if a full trial could be held with all the evidence for the prosecution and the defence he might be found to have acted legitimately and be acquitted. It is understood that the French Prosecution witnesses will not be available, and in their absence there is no possibility of a fair trial.
(d) Pucci appears to have had no sufficient excuse for shooting, but in this case also there is no possibility of a fair trial in the absence of the prosecution witnesses.

4. If the witnesses should subsequently become available in the cases of Biagioli and Pucci these two should be brought to trial.

5. I am of opinion that in all the cases the accused can properly be brought to trial for possession of arms etc. though a Court would be entitled to take all the circumstances into account and impose a ~~high~~ sentence if it

2. I have decided that it would not be proper in any of these cases to proceed with any charges except for possession of arms etc. contrary to Proclamation 1 Art.IV Para 5.

3. The reasons for this decision are :-

(a) Crivelli and Rusticci have committed no offence
(b) Bargelli was fully justified in shooting the soldier and would undoubtedly be acquitted by any AMG Court.
(c) It is more difficult to determine whether Biagioli was justified in shooting. It is possible that if a full trial could be held with all the evidence for the prosecution and the defence Biagioli might be found to have acted legitimately and be acquitted. It is understood that the French Prosecution witnesses will not be available, and in their absence there is no possibility of a fair trial.
(d) Pucci appears to have had no sufficient excuse for shooting, but in this case also there is no possibility of a fair trial in the absence of the prosecution witnesses.

4. If the witnesses should subsequently become available in the cases of Biagioli and Pucci these two should be brought to trial.

5. I am of opinion that in all the cases the accused can properly be brought to trial for possession of arms etc. though a Court would be entitled to take all the circumstances into account and impose a ~~high~~ lighter sentence if it desired to do so.

6. So far as possession of a permit is concerned none of these cases is at all difficult from the hundreds of other cases of a similar nature which have been tried in AMG Courts. The onus of proof is on the prosecution. Normally this is discharged and a prima facie case is made by

(a) A statement by the accused that he had no permit; or
(b) A statement by the Local CAO that no such permit has been issued from his office.

Enc: Processo verbali of;
Rusticci Tommaso
Pucci Mario
Biagioli Omero
Bargelli Eugenio
Crivelli Amos

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

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(840)

ACC/4083/1/L

4 SEPT 1944

Subject: Records of Proceedings.

To : Regional Legal Officer, Southern Region.

1: As you have been advised it has been decided that the records of Court cases tried in Foggia and Campobasso Province while those Provinces were under Region 5 should be retained by Region 5 Headquarters.

2: For the sake of uniformity it is considered desirable that records of cases tried in Foggia Province during the period when that Province was not under Regional control should also be held by H.Q. Region 5.

3: We are forwarding today to Region 5 the records in the following cases:

Spinelli Luigi, D'Antuono Michele, Ciotti Potito, DePalma Michele, and De Rosa Maria.

4: We recently returned to Foggia Province the records in certain other cases in the same category. Please arrange for those records be forwarded to H.Q. Region 5.

Signed by Col
RDH

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

Copy to: RLO Region 5:

111

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

(839)

ACC/4083/1/L

4 Sept. 44

Subject: FOGGIA Province Records.

To : Regional Legal Officer, Region 5.

In accordance with the arrangements that you should keep the existing Foggia and Campobasso records it is considered better for the sake of uniformity that these records also should be retained by you.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

Encs: 5 Record of Proceedings.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

838

ACC/4083/1/L

4 Sept. 44

Subject: Case of Piscetelli Luigi et al (Catoniere Meridionale)

To : Regional Legal Officer, Southern Region.

1. Reference the new petition filed by the above defendant, I am of the opinion that the material date in this case is the date of the first arrest of the accused.

2. From the telephone conversation this afternoon I gather that Piscetelli Luigi was first arrested on 19th March 1944 and that Mosca and Tagliavini were arrested two days later.

3. Will you please verify and state in writing the exact dates of arrest.

RICHARD H. WILMER
Colonel, CAC
Chief Legal Officer.

See 847

3

4083/1

(837)

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

4 September 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 herewith the documents listed below relating to review of sentences. In each of these cases the sentences exceeded 2 yrs.imp.

Legal File No.	Name	Court	Date of Trial	Document
3884	Marinelli Giovanni et al	Sup.Ct.5	5 Aug 44	Appl., Form 8
3910	Palumbo Francesco et al	Gen Ct.	9 Aug 44	Appl., Form 8

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

ETK/pv

40891

836

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

4 September 44

Subject: Transmission of Enclosed Documents relating to pardon (A.M.G. Ct.case)

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

1. There is attached hereto newly filed petition for review relative to the above subject. The record in this case was recently sent to A.C.C. for reconsideration.

L.F. Dawson By E.T. Kerr Capt.

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

ETK/pv

4083/1

835

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

4 September 44

Subject: CALONE Carmine.

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

1. The above subject was sentenced to less than two years imprisonment. However, by reason of the importance of the question involved, said case is being referred to the Chief Legal Officer for review of the same.

L.F. Dawson by E.T. Fry Capt.

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

ETK/pv

6

Ref F/P 3065
2/9 , 1944

(934)

SUBJECT: Summary Court Records.
TO : ~~P.L.O. Foggia (Attn: P.C.)~~. HQ. A.C.C. Legal Sub Commission
FROM : P.L.O. Foggia Province.

The following summary court records are forwarded herewith:

DISTRICT	No. of CASE (S)
MANFREDONIA(Gargano District)	502

2 Lt Rolfe major

Provincial Legal Officer
Foggia Province.

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

833

L-3028A

Naples,
1 September, 1944

SUBJECT: Case of CASORIA Arcangelo -et al.

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

1. Reference is made to letter dated 24 August, ref. ACC/10283/1/L.

2. Duplicate original of the petition for review by JULIANO BERNARDINO is enclosed.

3. The remarks by the Trial Judge were enclosed with the petitions and will be found attached to the petition for review.

4. The trial judge desires to add that in imposing sentence on CASORIA ARCANGELO, he took into consideration the accused's past criminal record (see typewritten copy of Form 8, p.8).

5. The file is returned.

A M Good, capt
for
I.F. DAWSON,
Lt Colonel C.L.
Regional Legal Officer.

4083/1

832

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

1 September 44

NOCERA

Subject: Decision on Review.

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

1. Reference is made to your communication ACC/4083/1/L, 29 August 1944. 812

2. The Decision on Review was received 22 August 1944 and sent thru channels the 23th of August 44, several days prior to our telephone conversation.

3. All future cases involving decisions regarding hemp will not be published until after the new law is passed.

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

ETK/pv

File

(831)

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/rm.

ACC/4083/1/L. 1 Sept 44.

SUBJECT : Case of OCCHIUZZI Vittorio.

TO : Regional Legal Officer, Southern Region.

In answer to L-3044 of 29 Aug 44.

1. I have explored the possibility of Capt. Falk returning to Naples to finish the case. This officer is now PLO Perugia where he is also acting as deputy Provincial Commissioner; and I am told he is extremely busy. For him to come from Perugia to Naples would involve him being away for several days and is, I fear, impracticable.

2. I do not think that any officer could deal adequately with this case merely by reading the record and hearing the speeches - even if the avvocati were agreeable. Moreover, it seems that the Prosecutor was Capt. Davis, and he also is a long way from here.

3. I am afraid, therefore, that the only possible course is to have a completely new hearing.

4. The enclosures to your letter are returned herewith.

RICHARD N. WILMER
Colonel, CAC,
Chief Legal Officer.

4083/1

Legal

830

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION VIII.

841

I September 1944.

RVIII/19/3008

SUBJECT: Cases of RUSTICCI, Tommaso and PUCCI, Mario.

TO: Chief Legal Officer, Hqtrs. ACC.

1. Attached is a translation of the French Proces-Verbal in the above-styled cases and a letter from the Provincial Legal Officer, Siena Province.

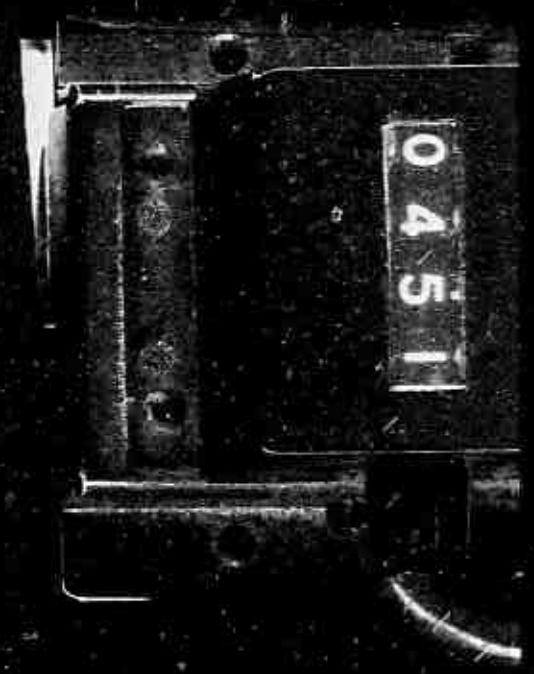
2. The facts of these cases have been discussed orally with the Provincial Police and Legal Officers, Siena Province. It has been concluded that in the absence of the French witnesses, trial of the RUSTICCI case is undesirable. This is so because the Prosecution would not be able to establish a case, and not because of the contents of the defense statements, which at the most are unimpressive.

3. Standing alone, the PUCCI case presents no difficulty in deciding that it should be brought to trial. When considered in connection with the RUSTICCI case, the aspect of expediency is presented. Should the RUSTICCI case be passed or dismissed, from a layman's viewpoint, trial and conviction of PUCCI might be regarded as an oddity in Allied administration of justice, and while fully justified from the Allied standpoint, is not warranted if offsext by a loss of prestige.

4. Be that as it may, it is deemed that a decision herein is warranted by a level of authority higher than this office, and the case if passed on to you. If you concur in this premise, will you advise this office of your conclusion? If you do not concur, a decision will be made at this level.

5. The Provincial Legal Officer has asked that the translated copy be returned to him.

John K. Weber
John K. Weber
Colonel, Infantry
Regional Legal Officer.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