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

785016

ACC

10000/142/579
(VOL. 12)

REVIEW OF
JAN. 1945

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

2/579

REVIEW OF COURT CASES (AMG), CORRESPONDENCE
JAN. 1945

0 7 3 6

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

785016

ACC/4083/1/1.

vol. 12

FROM : No. 1140

TO : No. 1294

SUBJECT : REVIEW OF COURT CASES (ALLIED MILITARY GOVERNMENT)

CORRESPONDENCE

168
27

0 7 3 7

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

1785016

SUBJECT : REVIEW OF COURT CASES (ALLIED MILITARY GOVERNMENT)

CORRESPONDENCE

168 *ju*

10000 / 142 / 579

THIS FOLDER

CONTAINS PAPERS

FROM *you* 45

CATALOGUE

0738

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

785016

FROM No. 1140

TO No. 1294

100

MISSING LETTERS

*returned
to sender*

1149
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✓
4083/1
HEADQUARTERS
FLORENCE PROVINCE
ALLIED MILITARY GOVERNMENT

Legale
RLO
1294

FL/1

26 January 1945

SUBJECT: Reviews - Case of VANZINI Sergio

TO : R.L.O. HQ., AMG. Toscana Region

1. I am forwarding herewith application for review on behalf of VANZINI Sergio who was sentenced to 27 years imprisonment for killing an American soldier and certain other offences. The comments of the President of the Court are appended thereto.

HLG/FV

Henry L. Glenn
HENRY L. GLENN, Major, JAGD.,
Legal Officer for the Province
and City of Florence

Encl.

1st Ind.

RVIII/19/3008

Headquarters, Toscana Region, AMG, 29 January 1945.
To: LEGAL SUB-COMMISSION, Headquarters, AC.

1. Forwarded.

For the Regional Commissioner:

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

file

NR

77

4083/1
✓

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

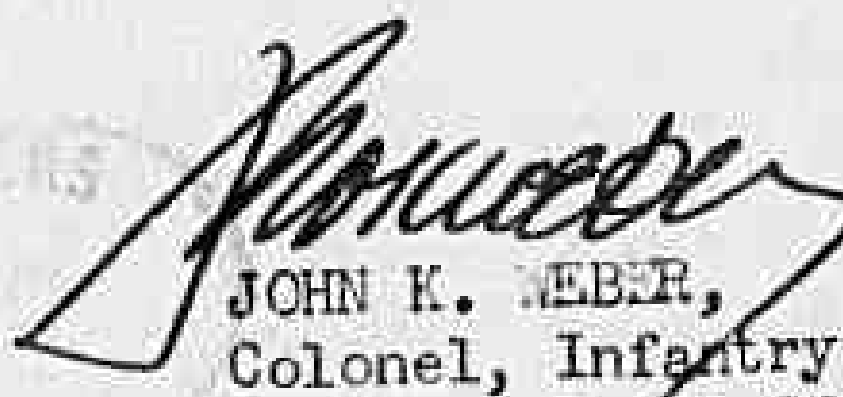
(1293)

Date: 17 January 1945.

File Ref: RVIII/19/3008

SUBJECT: Case of MORRA, Umberto.
TO : LEGAL SUB-COMMISSION (Attn. Chief Legal Advisor). ✓

1. Your letter 13 January 45, AC/4083/I/L has been received.
2. MORRA, Conte Umberto, on the 11th January 45, was ordered released on bail awaiting decision on review. The record in such case was on that date transmitted to your office. We are advising the Provincial Commissioner of the unconditional release of Morra, Conte Umberto by order of Mr. Mc Millan.


JOHN K. WEBER,
Colonel, Infantry
Regional Legal Officer.

202

b/f 21/1/45.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4083/1/L

/mt.
20 January 1945.

SUBJECT : Trial of Italian Soldiers by AM Court.

TO : Regional Commissioner (Attm: Regional Legal Officer)
ABRUZZI-MARCHE Region.

Reference R5/511/14/AMC of 18 Jan 1945.

1. Before giving a ruling on the question, I would have liked to have known the wording of the inscriptions alleged to have been written on the walls by the 3 soldiers.

2. Please find out from Ancona exactly what were the inscriptions. If you are satisfied that these inscriptions were clearly "hostile or disrespectful to the Allied Forces" the soldiers may be proceeded against before an Allied Military Court.

3. I suggest for your consideration that, if practicable, the court should consist of one judicial officer and one officer not in AC-AMC.

By command of Rear Admiral STONE:

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

4003/1
✓
file
TO : H.Q. ALLIED COMMISSION ✓
(for attention of Legal Sub-Commission)
FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION
SUBJECT : Trial of Italian Soldiers by AM Court
REF. : R5/511/14/ANC
DATE : 18 Jan. '45

1. Copy letter dated 10 Jan. '45 received from P.L.O. Ancona is attached.
2. In the ^{special} circumstances this would appear to be a case in which the appropriate course is to try the soldiers concerned before an AM Court. The matter is submitted for your decision in terms of Consolidated Instructions Art. 4(I)(c).

For the Regional Commissioner

19 JAN 1945

R. G. S. ALEXANDER, Major
R.L.O.

Copy to P.L.O. Ancona (through P.C.). Your ANC/11/12 dated 10 Jan '45 refers.

1300

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
ANCONA PROVINCE

COPY

1291 (B)

SUBJECT : Application to try Italian Soldier in AMG Court
TO : R.L.O. Abruzzi Marche Region
FROM : P.L.O. Ancona
REF. : ANC/11/12
DATE : 10 Jan. '45

1. Request has been made to this office by P.O. Jesi to charge and present for trial in an Allied Military Court, 3 Italian soldiers, GATTI Guido, BAZZINO Matteo, DOSIO Domenico, who are accused of writing inscriptions on the walls of buildings in Jesi, that are detrimental and disrespectful to the Allied Forces. The P.O. states that he has had considerable difficulty within the past few weeks with such incidents and that said acts are prejudicing the maintenance of good order in that community. The Italian soldiers involved, are members of a unit which is on duty protecting Allied Military installations in that area.

For the reasons stated above, authority is requested under Article IV of Consolidated Instructions to try the above named individuals in an Allied Military Court.

For the Provincial Commissioner

s/

W. T. BOONE
Capt. C.M.P.
P.L.O. Ancona

Copy to : P.O. Jesi

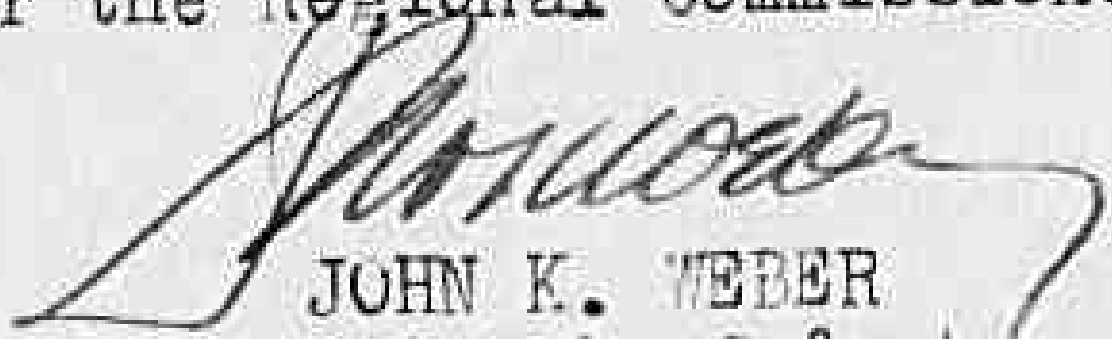
1st Ind.

RVM/19/3008

Headquarters, Toscana Region, AMG, 29 January 1945.
To: LEGAL SUB-COMMISSION, Headquarters, AC.

1. Forwarded, for completion of your file.

For the Regional Commissioner:

San L. B. 1/4/45
31 JAN 1945
A. C.

JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

HEADQUARTERS
FLORENCE PROVINCE
ALLIED MILITARY GOVERNMENT

1290

RHO

FL/1

26 January 1945

SUBJECT: Reviews, Cavallaro Umberto and Catullo Arturo

TO : R.L.O. HQ., AMG., Toscana Region

1. This will acknowledge receipt of your first endorsement (RVIII/19/3008) of 23 January to letter of Legal Sub-Commission 18 January relating to the decisions on review in the cases of Cavallaro and Catullo.

2. The accused and their lawyers have been notified of the affirmance.

HDG/FV

Henry L. Glenn
HENRY L. GLENN, Major, JAGD.,
Legal Officer for the Province
and City of Florence

RVIII/19/3008/2137

9749

16

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF: HQ/113/2/6150

SUBJECT: Case record(s) forwarded for review.

TO: J.I.O., Legal Sub-Commission, HQs
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

RIONTO/5/13. PETTA, Nicola. BARI/5m/74 TAMMA
 BARI/5/90 STEA, Giuliano BARI/5m/75 PASCALE, Giovanni
 BARI/5/91 POSTO, Sebastiano ANATOLIO, Angela
 BARI/5/92 PASALICHIO, Carmine BARI/5m/76 NEOLUNDA
 BARI/5/93 RATTI, Sebastiano BARI/5m/77 DI SANTO, Ugo
 BARI/5m/70 RITETTO, Giuliano BARI/5m/78 FLORIO, Luigi
 RITORNO, Saverio BARI/5m/79. SHERMAN
 BARI/5m/74 GIOVANNI, Emilio

May 2nd
 1944
 1288

785016

THEATRON USAO ARTI CONTEMPORANEE DI CATANIA TOT VOTTAZZOZZO OT

BARI/5/13. PETTA, Nicola. BARI/Sun/74 TANNA
 BARI/5/90 STEA, Corrado BARI/Sun/75 PASCALE, Carmine
 BARI/5/91 POSTO, Sebastiano ANATOLIO, Angela
 BARI/5/92 PASALUNGO, Carmine BARI/Sun/76 DEODOLATO
 BARI/5/93 RATTI, Sebastiano BARI/Sun/77 DI SANTO, Ugo
 BARI/5/90 BILETTO, Carmine BARI/Sun/78 FLORIO, Luigi
 BARI/5/91 RITORNO, Sinfonietta BARI/Sun/79. SCHETTINO
 BARI/Sun/91 MINORINI, Giuseppe
 BARI/Sun/92 MUSUMARBA, Felice
 BARI/Sun/93 PANTALEONE, Paolo
 BARI/Sun/93 GIANDOMENICO, Felice
 BARI/Sun/94

ALLIED COMMISSION
LEGAL OFFICE
BARI

683/3 ✓

1287

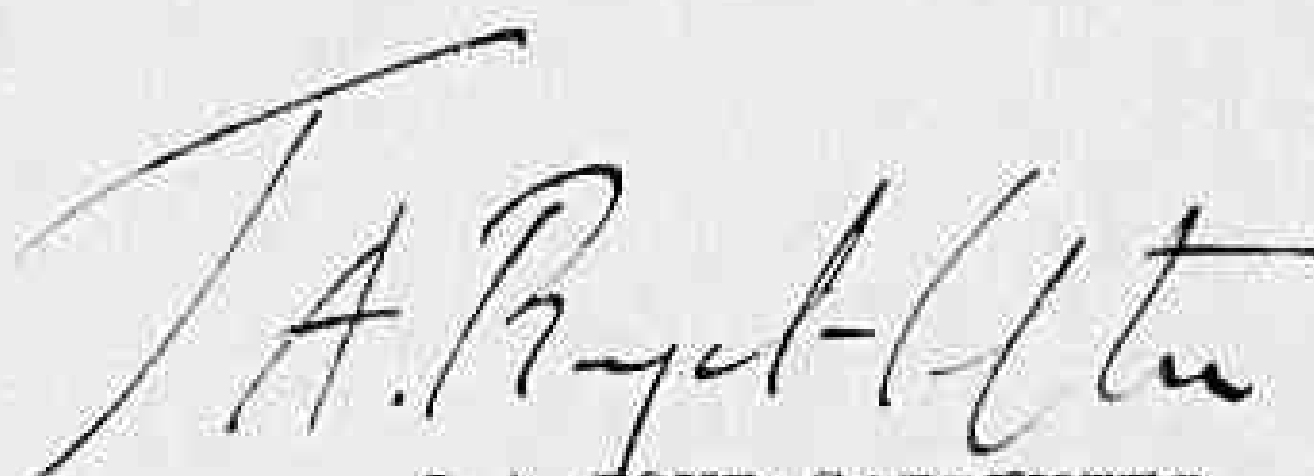
Ref : EZ/LEG/2/6163/O

27 Jan 45

Subject: Cases of PETRONI Domenico & LASERRA, Vincenzo.

To : C.L.C., Legal Sub-Commission, HQs Allied Commission.

1. Records in cases of PETRONI Domenico, and LASERRA Vincenzo are forwarded with request for a ruling on the following point.
2. In both cases which relate the offenders of the age of 14, Trial Judge applied Art 169 of the Penal Code, as amended by R.D.L. 1404 of 1934, Art 19, and granted a judicial pardon.
3. It is submitted that, as A.M. Courts in Bari sit to administer Italian law the Judge's action was a proper one both in law and on the merits, but as this HQs is unaware of any precedent for such action by A.M. Courts, it would be appreciated if a ruling might be given for future guidance.
4. It will be noted that in both cases the Court first recorded a finding of guilty, and then granted the judicial pardon. This procedure is different from that which an Italian Court would have followed, but it is submitted is a proper one under A.M. procedure.

J.A. BOYD-CARPENTER
Major L.O.
Apulia & Calabria.

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

1286

4083/1
HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION, LEGAL DIVISION
A.P.O. 394

D-1835

29 January 1945

L/1002-I

SUBJECT : MILLETTI Fernando et al.

TO : Chief Judicial Officer, Legal Sub Commission.
HEADQUARTERS ALLIED COMMISSION

1. Enclosed herewith record and proceedings in respect to the above case.

2. Since this case falls within Article 32, Par. B-2 of the consolidated instructions for Allied Military Courts, the same is forwarded for your attention.

For the Regional Commissioner.

Sam B. Gilreath

Sam B. Gilreath

Major, A.U.S.

Acting Regional Legal Officer.

RCH/PA.

ENCLOSURE:

Record and proceedings Re. the above case.

151

file

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

1285

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

29 January 1945

SUBJECT: Transmission of Enclosed Documents
relating to review of sentences.

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

1. Attached hereto are form 8 and ap-
plication for review in the case of SPARANO
Gaetano and CAPASSO Antonio. In this case one
of the accused received a sentence in excess
of 2 years imprisonment.

For the Regional Commissioner:

ETK/pv

150
L. F. Dawson
L.F. DAWSON, by E. T. Kien
Lt.Col., G.L., major
Reg.Chief Legal Officer.

XI

TO : HQ ALLIED COMMISSION
(for attention of Legal Sub-Commission)
FROM : HQ. AMG/AC ABRUZZI MARCHE REGION
SUBJECT : Petition for Review
REF. : R5/511/14/ANC
DATE : 29 Jan. '45

408311

1284

Herewith Record and Application for Review in the Superior Court
Case of BARTOLUCCI Emilio.

For the Regional Commissioner

R. G. S. Alexander
R. G. S. ALEXANDER, Major
R.L.O.

6732

151

HEADQUARTERS, ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4083/1/L.

/ap.
29 January 1945.

SUBJECT : Theft of detonators belonging to the
Allied Forces.

TO : Regional Commissioner, TOSCANA Region
(for Regional Legal Officer).

All persons concerned in this case against whom proceedings are to be brought, including the Italian soldiers, should be tried in an Allied Military Court. It is true that under Consolidated Instructions, Article 4, Italian troops will be tried by their own military courts in the absence of some very special reason to the contrary: but theft of a large quantity of Allied detonators by soldiers employed as guards in itself constitutes a very special reason.

By command of Rear Admiral STONE :

W. E. BEHRENS
W. E. BEHRENS, Colonel,
Deputy Chief Legal Advisor.

You papers are returned herewith

File

NR

PROVINCIAL LEGAL OFFICE
LIVORNO PROVINCE
UNITED MILITARY GOVERNMENT

January 23, 1945

Post: 994 B 10

SUBJECT : Italian Military Court.

TO : R.L.O. Toscana Region.

1. I am sending file of case involving Italian soldiers and civilians to be forwarded to the Italian Military Court in Roma.

2. This procedure is as per suggestion of Major Arnold P.B.S. and is in accordance with the Italian Law.

Robert M. Woodward
ROBERT M. WOODWARD
Major AUS P.B.O.
LIVORNO PROVINCE

1st Ind.

RVIII/19/7000
Headquarters, Toscana Region, AMG, 26 January 1945.
TO: LEGAL SUB-COMMISSION, Headquarters, AC. ✓

1. It is uncertain whether the papers in the instant case should in fact be forwarded to your office. This is the first occasion such request has been made. We would like to be advised if we are in error.

For the Regional Commissioner:

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



29 JAN 1945

4083/1
 HEADQUARTERS
 SOUTHERN REGION, ALLIED COMMISSION
 LEGAL DIVISION
 APO 394, U.S. Army

27 January 1945

SUBJECT: Transmission of Enclosed Documents
 relating to review of sentences.

TO : Chief Legal Officer, Legal Sub-Com-
 mission, A.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 years imprisonment.

Name	Court	Date of trial	Docu- ment
PELLECCHIA Antonio et al.	Sup.Ct.	28 Dec.44	Form 8, Appl.
DEL VECCHIO Enrico	" "	27 " 44	"

For the Regional Commissioner:

ETK/pv

L. F. Dawson
 L.F. DAWSON, *By E.T. Kern*
 Lt.Col., G.I., *major*
 Reg.Chief Legal Officer.

4083/1
✓
HEADQUARTERS REGION VIII
ALLIED MILITARY GOVERNMENT

File Ref: RVIII/19/2011

Date: 26 January 1945.

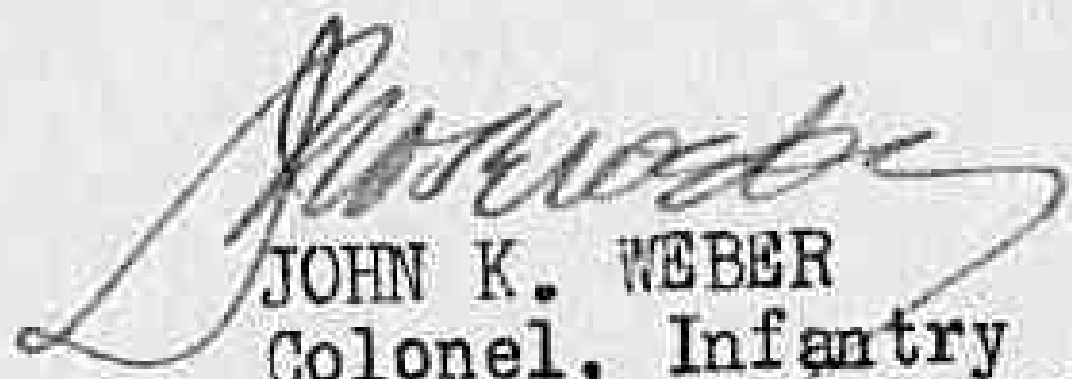
SUBJECT: Case of CIOCE, Francesco.

TO : Legal Sub-Commission, Headquarters, AC. ✓

1. See your letter 22 January 1945, AC/4083/1/L, above subject.

2. The record in the above case has not been received by this office. It has been requested. When received, it will be forthwith sent to you.

For the Regional Commissioner:


JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

RECEIVED
28 JAN 1945

151

X5

0757

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

785016

1879

29 Jan 45

Sir:

We have no correspondence to Abruzzi_Marche region under date of Jan 24. It is my opinion that the remarks to which the Maj. refers were such remarks as you placed on the transmittal letter of which we keep no copy

T/4 Latella

4383 | 1279

TO : HQ ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : HQ. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Petition for Review - Superior Court case of GENTILE Giuseppe.

REF. : R5/511/14/ANCO

DATE : 27 Jan. '45

Ref. query in your letter dated 24 Jan. '45 intimating decision on review of above case the provisions of Art. 14 of Consolidated Instructions were carefully considered before deciding to charge this man under Italian law. Rightly or wrongly it was considered that as a specific crime was disclosed (which after all was a Proclamation offence under Art. VII although it was not necessary so to charge it) the act complained of was not one of those intended to be covered by Sec. 45 and that adequate justice therefore could not be done under that Sec.. It is not always easy to decide in what circumstances Sec. 45 should be used and the guidance on the subject now furnished by Amended Consolidated Instructions was not then available.

For the Regional Commissioner

R. G. S. Alexander
R. G. S. ALEXANDER, Major
R.L.O.

4083/1
✓
R-E-S-T-R-I-C-T-E-DHEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION, LEGAL DIVISION
A.P.O. 394

19 January 1945

L/PER/A/02

SUBJECT : CAMPI Ettore.

TO : Chief Judicial Officer,
Lt.Col. Campbell, Legal Sub Commission.
Headquarters Allied Commission

Reference your letter AC/4083/1/L. of 13 January 1945.

1. Subsequent to the time that the above matter was before you for consideration, this accused has been subjected to a new trial with substantially the same result, except, however, that the Trial Judge ordered his immediate release with the understanding that he would be looked after by his family. Subject to amplification of the record I have affirmed the sentence.

2. As a practical matter there is little we can do with respect to this accused now except to make his family responsible for his care and well being.

For the Regional Commissioner,


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

RCH/PA.

(10)

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

4083/1

1244

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

26 January 1945

SUBJECT: Case of BORRELLI Ciro et al.

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

1. Attached hereto is form 8 and applications for review in the case of the above subject. In this case the accused received a sentence of more than 2 years imprisonment.

For the Regional Commissioner:

LEGAL SUB COMMISSION
CLO
DCLO
Chief Counsel
CLO
Section
CL 133
27 JAN 1945

ETK/pv

L.F. Dawson
L.F. LAWSON, By *E.T. Hess*
Lt.Col., G.I., Major
Reg. Chief Legal Officer

148

HEADQUARTERS, ALLIED COMMISSION
Navy Sub-Commission APO 394

NSC/1511
16 January 1945

From: Navy Sub-Commission, Hq. Allied Commission.
To : Deputy Chief Civil Affairs Officer,
Headquarters, 15th Army Group.
Via : Legal Sub-Commission, Hq. A.C.
Subject: Captain Sergio VANZINI, Italian Navy, Sentence of
by Allied Military Court, Florence, 6 Dec. 1944.
Enclosure: (A) Ministry of Marine ltr B.206 of 8 January 1944
to Flag Officer Liaison Italy, Rome (translated
copy).

1. Enclosure (A) is forwarded herewith. It contains a request by the Italian Ministry of Marine for information in regard to the sentencing of subject Italian Navy officer to 27 years imprisonment by an Allied Military Court in Florence on 6 December.

2. If such action is in accordance with existing procedure, it is requested that a copy of VANZINI's sentence be forwarded to the Navy Sub-Commission for transmission to the Ministry of Marine. In addition, it is requested that the Navy Sub-Commission be supplied appropriate particulars concerning VANZINI's actions so that proper notification may be given to the Ministry of Marine in regard to the sentence imposed on him.

H. W. Ziroli
H. W. ZIROLI,
Commodore, U. S. Navy,
for Chief, Navy Sub-Commission, A.C.

Note: Spoke Navy S.C. agreed
that we will NOT forward the letter
but answer it ourselves, the record
being here for review.

10
19 Jan

✓ic

COPY

From: MINISTRY OF MARINE (Cabinet)
To : F.O.I.I. - Rome.
Date: 8/1/45
Ref.: B.206

Subject: Capt. (A.N.) Sergio VANZINI's Sentence.

On 12th August last at Poggi di Rivalty (Pisa), Capt. (A.N. - Act. Serv.) Sergio VANZINI shot at and killed an American Sergeant of the 5th Army, apparently have mistaken him for a German.

On 6th Dec. the Allied Federal Tribunal at Florence issued its findings and sentenced VANZINI to 27 years imprisonment as he was found guilty of:

- a) - Culpable homicide
- b) - Robbing the body
- c) - Illegal possession of fire-arms.

2. As VANZINI is an Active Service Officer it is necessary, therefore, that a copy of the sentence should be forwarded to this Ministry by the Allied Court at Florence; at the same time F.O.I.I. is requested to kindly arrange for particulars (documents) of the proceedings to be sent us for perusal and return, so that this Ministry may be informed of what really occurred which resulted in a heavy sentence being passed on the Officer in question.

CHIEF OF CABINET

145
146

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AO/4083/1/L.

/rlp.
27 January 1945.

SUBJECT : Trial of Italian Soldiers.

TO : Regional Commissioner (Attn: Regional Legal Officer),
TOSCANA Region.

1. Ref RVIII/19/3008 of 23 Jan 45.
2. This case may be, and should be, tried by an Allied Military Court.

By command of Rear Admiral STONE:

10
W. E. BARNES,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4083/1/L.

/rlp.
27 January 1945.

SUBJECT : Case of FAZZARI Rocco, Italian Soldier.

TO : Regional Commissioner (Attn: Regional Legal Officer),
TOSCANA Region.

1. Ref KVIII/19/3008 (undated) ^{forward} ~~forward~~ attached letter from Major Glenn.
2. FAZZARI Rocco may be tried by an Allied Military Court.

By command of Rear Admiral SPATE:

Incl: Letter dtd 20 Jan 45, Maj Glenn.

lc
A. S. BREHENS,
Colonel,
Deputy Chief Legal Advisor.

MR

146

file
HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

40831 1212
27 January 1945

Dear

I have read the report of the great BASTONE case with great interest and, if I may say so, I think it is a very fine production.

May I offer the following comments:-

BACKSHEET AND PAGE 1: the prospect of an AMG Court in Padova on 14 Nov 47 will cause alarm and despondency and a general lowering of morale.

FOREWORD: as spelt at present ("forward") it sounds like the war-cry of the RLO VENEZIA leading his troops into action.

PAGE 1: last two lines and page 2, first 16 lines should be omitted.

PAGE 4: The judge on taking the Arrest Report should not read the statement of the first witness, who is later called to give evidence.

PAGE 5: The judge, not the interpreter, should administer the oath.

PAGE 10: I suggest that the comments of the judge in 7th para should be amended to read:-

" This is not strictly proof of identity but I will accept it....." and those in the last para might be changed to:

" Now, BASTONE, you have the right to give evidence yourself on your own behalf, if you wish to do so".

PAGE 11: (sixth paragraph). I do not like the present wording and suggest:-

"Any evidence called by the defence, including any evidence which you personally may choose to give, will be given full consideration. My judgment will be based on all the evidence which is before me, whether it is called for the prosecution or for the defence".

PAGE 12: as for page 5 above.

PAGE 22: (third para). I think that the present wording by the judge is too strong and should read:

"It is my duty to impose on you a sentence which will not only punish you for the offence you have committed but which will also make it plain to your fellow citizens that offences such as this will not be tolerated by the Allies and, when detected, will be punished severely".

2

The Italian-English translation has not been checked at all. FORM 8. This is too full. No doubt you made it full deliberately as a good example for GAO's, but it may have the effect of frightening them.

Moreover in such a simple case a GAO should not be required to produce a record longer than can be written in an average handwriting on the Form 8.

The note should show which answers were given in chief and which in answer to cross examination.

As to distribution. Without casting any reflection whatever on the excellence of your production, I doubt if it will really have much effect: perhaps this is because HQ personnel grow cynical while Regional personnel retain their optimism and faith in human nature!! That being so, this HQ will not issue it as an HQ production: but there is no objection to its publication within any Region or Army AMG especially if some of the suggested amendments are introduced. Indeed, I suggest that you should approach Hugh Dickie (now with AMG 5th Army and earmarked as RLO Lombardia) and, if you wish, Mercer and Elder (RLOs Piemonte and Liguria respectively) to see if they wish to take it up for their Regions.

I certainly do not approve Alexander's suggestion that it should be issued to Italians.

As you were kind enough to write to me personally about this question, I am answering in the same way: but I have discussed the question with Behrens who agrees with what I have said and, indeed, some of the comments are his.

Yours

Je

TO:

Col. H. G. WILLMER, K. C.
Regional Legal Officer
VENEZIA Region.

("Report" returned with request for copy when run off)

NR

(1273)

File No. RXIII/LE/Reg/J/02.

H.Q., Venezia Region,
Allied Commission.

16 January 1945.

Dear Ian,

The enclosed piece of literature was evolved by me in my spare time, of which at present I have too much. I embarked on the idea because it seemed to me that there were so many people in this country who have so little idea of how to conduct a Court, how to prepare a charge and how to keep a record. It occurred to me that for such people a single specimen of the sort of thing required would be far more valuable than a hundred directives.

→ Having written it I showed it to Levit and also to Alexander, who has recently been up this way. Both of them were kind enough to say that they thought the idea a good one (whether this merely out of deference to my rank or whether they really meant it I do not of course know). Levit did, however, order copies for circulation at once round the C.A.Cs. of 8th Army, some of whom are new to the game and do not know much about how to conduct Courts. For the moment I have run off and sent to him 7 copies, which I presume he is now circulating round the C.A.Cs. Alexander thought a wider circulation was worth considering, and suggested not only all officers of the Allied Commission who ever have to take courts, but also a supply for members of the Italian legal profession, who equally require some guidance as to the procedure in A.M. Courts.

Alexander's suggestion takes me rather out of my depth. For one thing, with our present skeleton establishment I have not the facilities for duplicating and issuing any large numbers of a document like this. But also, and more particularly, I should not like to embark on mass distribution of a document like this without first referring the thing to the Chief Judicial Officer for his approval. In any case I am only in a position to issue the thing to one Region. If the thing is valuable enough to justify issuing on a large scale to one Region, it might just as well be issued to all Regions at present under, or hereafter to be under, Military Government. You are the only person who could do this.

Therefore I, as humble author, come to you as my publisher, and offer to sell my work to you. If you like it, you can have it; if you don't think much of it, I hope you will be candid enough to say so, and you can quietly put the thing in the waste-paper basket. In defence of it I will say only this much - firstly I have tried to keep it as simple as possible, and that, is why I have selected a very simple and common type of offence; and secondly I have tried to introduce all the stock incidents that habitually crop up in every A.M. Court case (the accused who starts off to make a speech for the Defence when asked to plead, the Advocate who insists on asking questions as to the character of the accused before verdict, the absence of the witness who made the Arrest Report, and so on), with my ideas as to how these situations should be dealt with.

File

If, after reading the document, you like the idea of it, the suggestion is that you arrange for copies to be produced in bulk (either printed or mimeographed), with any amendments that you see fit to make, for issue to all Regions under the auspices of the Legal Sub-Commission. In other words I invite you to adopt my child. If you accept the baby, I offer the further requests and suggestions:-

- (a) The anonymity of the author should be preserved.
- (b) If the document is printed, the size of page should be such that the exhibits are of life size, folded into the book, as with the Consolidated Instructions.
- (c) If you think that the document should be issued to members of the Italian legal profession, as well as to officers of the Commission, the title and the Foreword will have to be translated into Italian, and you might consider the suggestion that the Foreword be re-written in view of what is said in it about Italian Avvocati.

It may be you will think that, while there is nothing wrong with the document, it is not sufficiently valuable as to justify the trouble and expense of large-scale issue (I think this is quite a probable conclusion). In that event I should like to have your official approval, as Chief Judicial Officer, of its being circulated in a limited way round the officers of this Region and of A.M.C., 6th Army. I should not like to feel that I was putting out anything actively disapproved of by you.

With that I leave the matter in your hands, to do just as you think fit - and you need not worry about my being offended if you refuse to adopt my child. I had intended to bring the thing with me to Rome for the R.L.Cs. Conference, with a view to selling my wares to you in person. But I now hear that the Conference is postponed, so I send the document to you by mail instead.

I have tried a few General Court cases up here recently, which will no doubt be finding their way into your hands. Otherwise life up here is extremely dull, and not much fun. I hope you are well yourself, and that you are being kept reasonably busy.

Yours Ever,

Frederick W. W. W.

Lt. Col. I. G. H. Campbell,
 Chief Judicial Officer,
 Legal Sub-Commission,
 H.Q., A.C.

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION, LEGAL DIVISION
APO 394

L/1002-I

25 January 1945

SUBJECT : Preforma Re. MIRABELLI Graziano
and PIERGENTILI Giuseppe.

TO : Chief Judicial Officer,
Legal Sub-Commission,
HEADQUARTERS ALLIED COMMISSION.

1. Enclosed herewith a proforma in respect to the
above from Avv. Spezzano which is self-explanatory.

2. He raises an interesting point under Italian
Law in respect to his case which might have some bearing in
future cases.

For the Regional Commissioner

Robert C. Hendrickson
ROBERT C. HENDRICKSON
Lt. Col., A.U.S.
Regional Legal Officer

Incl. 1 : Preforma of Avv. Spezzano Re. the above. SUB COMMISSION

RCH/GV.

Considered : Not interesting
No action
IC

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

CLIO	
DOO	14
Chief Counsel	
CJO	
Italian Section	
CL RKS	
26 JAN 1945	

Studio Legale
Avv. Francesco Spezzano
Via Tibullo n.16 p.1°
Telef. 81-109 - ROMA -

Egregio sig. Maggiore Robert Hendrickson

Regional Legal Officer

Via Lucullo n.6 = ROMA =

Nell'interesse dei miei clienti Mirabelli Graziano e Piergentili Giuseppe, detenuti nelle carceri giudiziarie di Terni, mi pregio esporre a V.S. quanto appresso:

Mirabelli e Piergentili furono condannati a tre anni, di cui uno condizionale, per violazione al proclamo alleato n.1, art.4 bez. VII e XI.

In sede di revisione la sentenza è stata ridotta per il Mirabelli a 18 mesi e per Piergentili a due anni.

A parte ch'io oso sperare che anche per Piergentili, incensurato ed ottimo padre di famiglia come l'altro mio cliente Mirabelli, la pena venga ridotta a mesi 10, mi permetto sottoporre a V.S. un onesto quesito giuridico.

Il Tribunale aveva concessa la condizionale di un anno della pena di anni tre. Se la pena è ridotta in sede di revisione non può essere tolto l'anno di condizionale, beneficio dato dal primo giudice altrimenti per il

0771

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

Nell'interesse dei miei clienti Mirabelli Graziano e Piergentili Giuseppe, detenuti nelle carceri giudiziarie di Terni, mi pregio esporre a V.S. quanto appresso:

Mirabelli e Piergentili furono condannati a tre anni, di cui uno condizionale, per violazione al proclama alleato n.1, art.4 Sez. VII e XI.

In sede di revisione la sentenza è stata ridotta per il Mirabelli a 18 mesi e per Piergentili a due anni.

A parte ch'io oso sperare che anche per Piergentili, incensurato ed ottimo padre di famiglia come l'altro mio cliente Mirabelli, la pena venga ridotta a mesi 10, mi permetto sottoporre a V.S. un onesto quesito giuridico.

Il Tribunale aveva concessa la condizionale di un anno della pena di anni tre. Se la pena è ridotta in sede di revisione non può essere tolto l'anno di condizionale, beneficio dato dal primo giudice altrimenti per il Piergentili la pena resta sempre la stessa di due anni.

Secondo la legge italiana un beneficio, che dà il Magistrato di prima istanza il Tribunale come nel caso, può essere tolto dalla Corte di

- 2 -

Appello (equiparata al giudizio di revisione della Corte Alleata) solo quando ricorre il Procuratore del Regno e la Corte accolla il ricorso. Il beneficio quindi concesso non può essere revocato e la pena resta immutata o ridotta come nel caso dei miei difesi.

Vorrei conoscere la magnifica lingua inglese, ch'io definisco della civiltà e del lavoro del mondo, per poter bene e completamente esprimere il mio profondo dolore per avere comunicata ai miei clienti la buona notizia della riduzione della pena quando in effetti nessun beneficio è stato concesso.

Non si può parlare di riduzione se la pena rimane la stessa.

Ella, Sig. Maggiore Hendrickson, che, coll'indimenticabile Colonnello Pollock ed altri Ufficiali Superiori Alleati, mi ha onorato di sentire la mia difesa nel processo dell'ex Questore Caruso, ha potuto constatare quanto zelo spieghi con le mie deboli forze per i miei clienti.

Perciò voglio augurarmi che sarà autorevole interprete della correzione evidente della sentenza di revisione colla riduzione della pena per entrambi a mesi 18, di cui uno condizionato come già aveva concesso il Tribunale.

esprimere il mio profondo dolore per avere comunicata ai miei clienti la buona notizia della riduzione della pena quando in effetti nessun beneficio è stato concesso.

Non si può parlare di riduzione se la pena rimane la stessa.

Ella, Sig. Maggiore Hendrickson, che, coll'indimenticabile Colonnello Pollock ed altri Ufficiali Superiori Alleati, mi ha onorato di sentire la mia difesa nel processo dell'ex Questore Caruso, ha potuto constatare quanto zelo spieghi con le mie deboli forze per i miei clienti.

Perciò voglio augurarmi che sarà autorevole interprete della correzione evidente della sentenza di revisione colla riduzione della pena per entrambi a mesi 18, di cui uno condizionato come già aveva concesso il Tribunale.

Con distinta osservanza e fiducia

Roma, 16 gennaio 1945

Avv. Francesco Spezzano

Avv. Francesco Spezzano

Legal Office
 Avv. Francesco Spezzano
 Via Tiburio No. 16 p. 1°
 Tel. 31.109 - ROME

To Major Robert Hendrickson
 Regional Legal Officer
 Via Lucullo 6
 ROME

In the interest of my clients Mirabelli Graziano and Piergentili Giuseppe, who are detained in the judiciary prison of Terni, I have the honor of stating the following:

Mirabelli and Piergentili were sentenced to three years, one of which was conditional, for violation of the Allied Proclamation No. 1, Sect. VII and XI.

After revision the sentence was reduced for Mirabelli to 18 months and for Piergentili to two years.

Apart from the fact that I dare to hope that also for Piergentili, who is reproachless and an excellent father of his family as is also my other client Mirabelli, the sentence be reduced to 18 months, I would like to submit an honest juridical question to you.

The Tribunale had granted one year of the three years sentence as conditional. If the sentence is reduced on revision the conditional year cannot be taken away - this being the benefit given by the first judge, otherwise Piergentili's sentence would remain as two years.

According to Italian law a benefit which is given by the first trial Magistrate of the Tribunale as in this case can be taken away by the Court of Appeals (which can be compared to the revision judgement of Allied Combs) only when appealed for by the Procuratore del Regno and the appeal is accepted by the Court. Therefore the benefit which has been granted cannot be withdrawn and the sentence remains unchanged or reduced as in the case of my defendants.

I should like to know the magnificent English language which I define as belonging to the civilization and work of the world, in order to be able to express well and completely my profound grief at having informed my clients of the good news of the reduction of sentence when actually no benefit has been granted.

One cannot speak of reduction if the sentence remains the same.

(2)

You, Major Hendrickson, who, together with the unforgettable Colonel Pollock and other Superior Allied officers, have honored me by hearing my defence in the ex-Questore Caruso trial, know with just how much zeal I attend to the questions of my clients.

Therefore I hope you will be an authoritative interpreter of the evident correction of the revised sentence with the reduction of sentence for both of them to 18 months, of which one year is conditional as the Tribunale previously granted.

With respects and confidence

Rome, 16 January 1945.

Avv. Francesco Spezzano.

0776

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

785016

4083/1 ✓

HEADQUARTERS REGION VIII
ALLIED MILITARY GOVERNMENT

1270

File Ref:

RVIII/19/3008.

Date: 23 January 1945

SUBJECT: Trial of Italian soldiers.

TO : Legal Sub-Commission, Headquarters, AC. (Attn Chief Legal Advisor) ✓

1. Attached hereto is a statement of a telephone communication just received from the Provincial Legal Officer, Pisa Province, and now delivered to me. The statement is self-explanatory. I have time in which to dispatch the same to you on the next courier, which I am doing.

2. May I have the benefit of your advice thereon, as set forth in Article Four, 2 "Consolidated Instructions?"

For the Regional Commissioner:

HEADQUARTERS
25 JAN 1945
A. G.

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

LEGAL SUB-COMMISSION
CLO
COO
Chief Counsel
CL 135
26 JAN 1945

13

YJ

1249

FROM:- Lieut Nevans

TO :- Colonel WEBER.

1. In PISA this morning 12 Italian Soldiers stopped a Brazilian soldier and Italian Girl. They drove the Brazilian Soldier away but did not strike him. Then they seized Italian Girl and cut all her hair off. Told her that this was done because she was going with Allied Force soldier. American Military Police have taken 8 of 12 Italian soldiers into custody and they are being held in PISA. American Military Police have received complaint from a woman who said she had been threatened with the loss of her hair as she is persisting in going with Allied Soldiers.

2. Have discussed situation with Major BRENNAN and he agrees that it would be advisable if AMG Court could handle offence. Would like necessary permission from RC or from ROME.

3. The Girl Employees of this Office have heard indirectly of this talk circulating around PISA. Would like to take action in this case as soon as possible.

4. Could you please ring Lieut NEVANS tomorrow morning.

Message received by L/Cpl Peters at 1600 hours, 23 Jan 45.

✓ 4083/0

1268

1st Ind.

RVIII/19/3008
 Region Headquarters, Toscana Region, 23 January 1945.
 TO: LEGAL SUB-COMMISSION, Headquarters, AC.

1. The case referred to in the basic letter is sent to you for your instruction, as required by Article 4, Paragraph 1, c, "Consolidated Instructions".

For the Regional Commissioner:



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

FAZZARI Rocco

LEGAL SUBCOMMISSION
CLO
CLIO
Chief Counsel
CL
Section Secured
C. 15
26 JAN 1945

133

Y/S

4083/1

1265

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

24 January 1945

SUBJECT: Transmission of Enclosed Documents
relating to review of sentence.

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

1. Attached hereto is form 8 and applica-
tion for review in the case of VITIELLO Candido.
In this case the accused received the sentence
of 6 years imprisonment.

For the Regional Commissioner:

ETK/pv

L. F. Dawson
L.F. DAWSON, *By E. B. Hew*
Lt.Col., G.I., *Major*
Reg.Chief Legal Officer

25

4083/1.
TO : HQ. ALLIED COMMISSIO
(for attention of Legal Sub-Commission) ←
FROM : HQ. AMG/AC ABRUZZI MARCHE REGION
SUBJECT : Review of Cases - D3/FAB/45/o SPURI Arturo.
REF. : R5/511/14/ANC
DATE : 24 Jan. '45

2461

25 JAN 1945

Ref this office letter of even file dated 3 Jan. '45 a Petition has been filed bearing upon the health of above prisoner. I am awaiting a Report by the P.P.S.O. to whom the Petition has been passed for a Report. The man has meantime been released to hospital. Will you kindly delay reviewing the Record until you receive the Petition?

For the Regional Commissioner

file
R. G. S. ALEXANDER, Major
R.L.O.

131

✓
40231
HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

1263

23 January 1945

SUBJECT: Transmission of Enclosed Documents
relating to review of sentence.

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

1. Pursuant to appropriate order I
enclose herewith the documents listed below
relating to review of sentences. In each of
these case the sentence exceeded 2 years im-
prisonment ^{and} 90 days expired.

Name	Court	Date of Trial	Docu- ment
IMPARATO Luigi et al	Sup.Ct.	22 Dec44	Form 8, Appl.
BUNGARO Alfonso	Sup.Ct.	20 " 44	Form 8

For the Regional Commissioner:

15
ETK/pv

L. F. Dawson
L.F. DAWSON, *By E. T. Kern*
Lt.Col., G.I., *major*
Reg.Chief Legal Officer

ALLIED COMMISSION
LEGAL OFFICE

BARI

Adm Tany
1945
(1262) 13

REF: BA/LEG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.L.O., Legal Sub-Commission, HQs
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BAR/5/74 LOMISO, Giovanni BAR/5/7. ARON
to 54 ind. * and 13 others ^{France}

BAR/5/48 LAMURGISE, Concetta BAR/5/59. CLIBERTI
BAR/5/49 * LA FORGNA, Carlo ^{Austria}

BAR/5/50 * RUSSO, Giacchino BAR/5/60 MALPARELLI ^{Switzerland}

BAR/5/51 * VALLONE, Sebastian ^{WORLD}

BAR/5/52. * DI LEO, Luigi BAR/5/61 RESTA ^{France}

BAR/5/53 * DI LEO, Carmello BAR/5/63. RESTA ^{Switzerland}

BAR/5/54 * ANGINELLI, Camillo BAR/5/65. RESTA ^{Switzerland}

BAR/5/55 * ANTONIACI, Teresa

BARI/5/74 LORISO, Casarini BARI/5/77 ANTON
 to 5/74 ind. * and 13 others
 BARI/5/48 LAMURGISE, Concetta BARI/5/59 CLIBERTI
 BARI/5/49 * LA FORGH, Carlo Ancona
 BARI/5/50 * RUSSO, Giacchino BARI/5/60 MALDARE
 BARI/5/51 * VALLONE, Sebastiano PUGLIA
 BARI/5/52 * LEO, Luigi BARI/5/61 RESTA
 BARI/5/53 * DI LEO, Concetta BARI/5/63 * RESTA
 BARI/5/54 * AUGINELLI, Cinzia FRANCIA
 BARI/5/55 * ANTONIACI, Teresa BARI/5/65 * BELLATERRA
 BARI/5/56 * CILENTI, Antonio BARI/5/66 PAUL
 BARI/5/57 * CILENTI, Antonio BARI/5/66 LUGGIA
 BARI/5/58 * CILENTI, Antonio BARI/5/66 CINESE

See over

H. Boyd-Caldwell
 Major, L.C.,
 Apulia & Calabria

BUTO/5m/67. CASAMASSIMA, Irene P.

BUTO/5m/11. DE NIKOLO, Riccardo

BUTO/5m/12. SPACCAVENTO, Gino

BUTO/5m/12. DOXA, Rosa

BUTO/5m/14. CORRI, Francesco

BUTO/5m/16. PALMIERI, Saverio

BUTO/5m/17. NARDELLI, Carmine

BUTO/5m/18. PERILLO, Antonio

BUTO/5m/19. PELLEGRINO, Luigi

BUTO/5m/22. FALLAGARA, Giuseppe

BUTO/5m/23. CARAVELLA, Saverio

14th 83/11- ✓

1262-A

Turny 23rd

1945

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF : BZ/L.G/2/6150

SUBJECT: Case record(s) forwarded for Review.
TO : C.L.O., Legal Sub-Commission, HQS
ALLIED COMMISSION

1. Forwarded herewith for review on expiry of 30 days from date
of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

Butente/5/10	COCCIO, Corino
BARI/Jun/68	QUATERO, Pasquale
BARI/Jun/69	BATTISTA, Giovanni

128

Benton/5/10 Cuccio, Corino

BARI/5/68 QUATERO, Nardis

BARI/5/69 BATTISTA, Corino

A. Boyd-Ganter

J. A. BOYD-GANTER

Major, L.O.,

Apulia & Calabria

ALLIED COMMISSION
LEGAL OFFICE
BARI

(126)-B

REF : RL/LEG/2/6153/3

23 Jan 45

SUBJECT : Case of BELLAVEDUTA Giuseppe.

TO : C.L.C., Legal Sub-Commission, Hqs Allied
Commission

1. Record in case of BELLAVEDUTA Giuseppe di Vito is forwarded for following reasons:
2. Accused is (15) years of age, and although the offence is a serious one it is NOT felt that it is sufficiently so to justify sending a boy of this age to prison, while the sentence is too short to permit of transfer to a reformatory.
3. Trial Judge has been seen, and has indicated in the light of considerations put to him that he would if it were now open to him suspend the sentence.
4. Consequently this Hqs has in accordance with new Article 35(2) of Consolidated Instructions ordered his release, and record is forwarded with recommendation that sentence be suspended.
5. Reason for prolonged delay in bringing case to trial is being taken up with the arresting authority, the local Polish Military Police.

J.A. BOYD-CARPENTER
Major, IO,
Apulia & Calabria

JABC/mk

127

✓ 4083/1

TO : HQ. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM :: HQ. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Cases for Review

REF. : R5/511/14/ANC

DATE : 23 Jan. '45

Legal (12617A)

1. Herewith following Records for review :

TERCELLINI Giuseppe	D1/ANC/414
MAGGIORI Vittorio	D1/ANC/414/a
BIAGIALI Renzo	D1/ANC/414/b
ANSELMi Adelema	D1/ANC/414/c
SANTELLI Eugenio	D1/ANC/415.

2. These cases involve charges under Italian law. No Petitions for Review have been received to date.

For the Regional Commissioner

2. G. S. Alexander
R. G. S. ALEXANDER, Major
R.L.O.

24 JAN 1945
6594

NEC 3 JAN 1945
24 JAN 1945

403
ALLIED COMMISSION
LEGAL OFFICE
BARI

1260-B

REF : BE/LEG/2/6163/O

23 Jan 45

SUBJECT : Case of MILANO, Giovanni & others
TO : C.L.O., Legal Sub-Commission, HQs
Allied Commission.

1. Above record is forwarded as term of imprisonment (although suspended) as well as a fine was imposed on charge under Art.712.
2. As all fines have been paid, it is suggested that it be the imprisonment which is quashed.
3. General question of term of imprisonment in default has already been submitted to your HQs.

J.A. Boyd-Carpenter
J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria

Copy to Major F.J.Aulisi.

123

JABC/mk

✓
4083/1
ALLIED COMMISSION
LEGAL OFFICE
BARI

12607A

REF : BZ/LEG/2/6163/0

20 Jan 45

SUBJECT : Application for review of sentence.

TO : C.L.O., Legal Sub-Commission, HQs Allied
Commission

1. Forwarded herewith is application for review of sentence submitted by LISI, Antonio, together with record in his case.
2. Delays in communication and translation account for delay in Form 11, as returned and amended, reaching this HQs. It was originally submitted within 30 days.
3. It is submitted that it must have been abundantly clear to accused from, inter alia, nature of articles in question, that they were the product of a delict.
4. Offences of this nature are very prevalent in BITONTO, and it is submitted that this sentence is a proper one for deterrent purposes.



J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria

121

JABC/mk

4083/10

1259

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION, LEGAL DIVISION
APO 394

L/1010

22 January 1945

SUBJECT : Conte Morra Umberto di Lavignano

TO : Chief Judicial Officer,
Legal Sub-Commission, Hdqrs.

1. Enclosed herewith correspondence relative to the above which is quite self explanatory.
2. This Hdqrs has contacted Toscana Region in an effort to produce the necessary information requested by the Security Division.
3. Since this case is in your Hdqrs pending review, perhaps you might be able to furnish this information.

For the Regional Commissioner



ROBERT C. HENDRICKSON
Lt. Col. A.U.S.
Regional Legal Officer

Incl. 1 Correspondence Re to the above.

RCH/GG.

Spoke Hendrickson: agreed N.A. on letter. Information (if any) still required by P. Safety will be supplied direct. The enclosed (Regional P.S. to Regional Legal) forwarded to P.S. S-C telling them to speak to me if they wish, but that there is a minute by me on their file.

N.F.A.



611010 HEADQUARTERS REGION VIII
ALLIED MILITARY GOVERNMENT

Legal

File Ref:

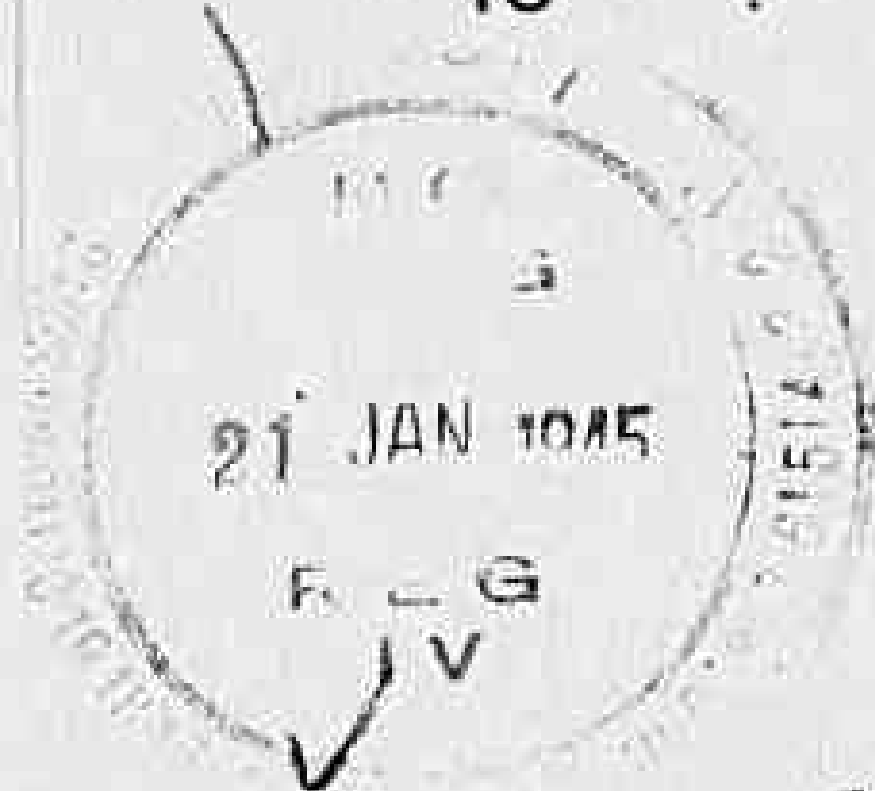
RVIII/19/3008

Recd.

22

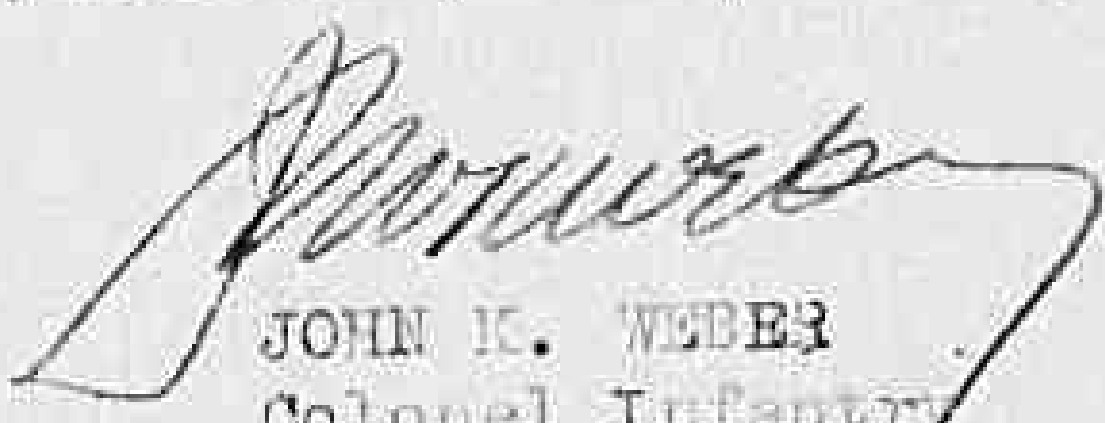
Date: 18 January 1945

SUBJECT: Case of MORRA, Conte Umberto
TO : Regional Legal Officer, Lazio-Umbria Region



1. This is in reply to your letter 13
January 1945, L-1010.

2. The record in the above case may be
found at the Legal Sub-Commission, Headquarters,
A.C.


JOHN K. WEBER
Colonel Infantry
Regional Legal Officer

ALLIED COMMISSION
LEGAL OFFICE
BARI

1258

REF : BZ/LEG/2/6163/O

22 Jan 45

SUBJECT : Case of GIAMPIETRO, Rodolfo
GIANNOCARO, Nicola
DE NICOLO, FrancescoTO : C.L.O., Legal Sub-Commission, HQs Allied
Commission

1. Papers in above case are forwarded for immediate review for the following reasons:
2. Conviction is based on admissions made by 3 young boys, all of which were later denied by them on oath, and alleged to have been obtained from them by duress, and on hearsay evidence given by Sgt Eagle, A. of statement made to him by another unnamed soldier.
3. While the accused may well be guilty, it is NOT considered that conviction on such evidence by an A.M. Court is satisfactory, and it is recommended that conviction be quashed.
4. Date of birth of accused DE NICOLO, Francesco is *3rd Feb 1927* and age is NOT as stated on record.
5. It is further considered that having regard to ages of GIAMPIETRO and GIANNOCARO sentences are unduly severe, and should be suspended. They have been in gaol since 29 December 1944.

*J.A. Boyd-Carpenter*J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria

JABC/mk

121

ALLIED COMMISSION
LEGAL OFFICE
BARI

1257

22 Jan. 45.

Ref : BZ/LEG/2/6163/C

Subject : Cases forwarded for review.

To : C.L.C., Legal Sub-Commission
Hqs Allied Commission.

1. Record in case of

RUSSI, Iolanda and
CICOLA, Mario

is forwarded herewith for following reason.

→ || 2. Trial Judge expresses view that sentence imposed by him is excessive, and should be reduced to one of one month's imprisonment.

- || 3. Although sentence is NOT on the face of it ~~unduly~~ severe, having regard to Trial Judge's expressed view of sentence it is recommended that sentences be both reduced to one months imprisonment.

JA 60/gv

J.A. BOYLE-CARPENTER

Major 10,
Apulia & Calabria

12

1256

HEADQUARTERS ARMED COMMISSION
APO 394
LEGAL SUB - COMMISSION

TCL/pa.
25 Jan 45.

AS/1483/1/1.

SUBJECT : Infernal Petition - CAVALIERO Umberto.
TO : Regional Commissioner, TULUVA Region.
(Attn: Regional Legal Officer)

1. The Chief Judicial Officer has considered the attached petition presented on behalf of CAVALIERO Umberto.

2. As the case was so recently reviewed he does not require the record of the case to be submitted to this C. He has decided that this petition discloses no grounds to warrant the case being re-tried.

3. The evidence of Gen. WIFE is purely character evidence. That of the soldier WIFE has already been considered as his statement was forwarded with the application for Review.

The conviction and sentence as affirmed on 12 Jan 45 will therefore stand.

4. Will you please ensure that the above is communicated to CAVALIERO Umberto.

By command of Rear Admiral STONE :

W. E. BROWN,
Colonel,
Deputy Chief Legal Advisor.

Encls. Petition.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WGH/pa.
25 Jan 45.

AC/ACB/1/L.

SUBJECT : Petitions - MANGANO Biagio, BONCIBINO Giuseppa.

TO : Regional Commissioner, TOSCANIA Region.
(Attn: Regional Legal Officer)

1. Returned herewith are the petitions presented on behalf of the above named persons.
2. Applications for Review were filed by those accused and considered at the time of reviewing the case. These fresh petitions do not disclose any reason why the decision then taken should be altered.
3. The decision taken on review on 17 Jan 45 will therefore stand.
4. Will you please ensure that this decision is communicated to the above-named persons.

By command of Rear Admiral STONE :

W. E. BARRIS,
Colonel,
Deputy Chief Legal Advisor.

2 Incls: 2 Petitions.

HEADQUARTERS ALLIED COMMISSION

APO 394

LEGAL SUB-COMMISSION

AC/40833/1/L.

/rm.

24 Jan. 45.

SUBJECT : Case of SANTORO Angelo et al.

TO : Allied Commission, Bari zone (for Legal Officer).

SANTORO

1. The papers in the case of ~~SANTORO~~ Angelo et al (the sugar case) have been considered.

2. These papers, consist of:

- (a) A very clear and helpful "Statement of the Court" and
- (b) Forms 8 and (when submitted) Forms 11.

3. There is nothing, however, which purports to be a record: e.g. there is no note of the statement made by the prosecution or of any point in litigation submitted by the "avvocati". In these circumstances it is impossible for the Reviewing authority to form any opinion except one based entirely on the "Statement of the Court". The Reviewing authority is left completely in the dark on many essential points such as the time of day (or night) of the theft, or how those charged under art. 640 P.C. acquired the sugar and how they knew it was the proceeds of a theft. One accused (VENTURELLI) alleges in his petition that he bought the sugar after it had passed through four hands not knowing that it was stolen; and that therefore art. 714 P.C. was applicable and not art. 648.

4. Furthermore in regard to MARI Vincenzo, DE MASTRO Michele, GENTILE Giorgio, QUERZILLI Giuseppe and DE MARZO Pasquale, the Statement of the Court is that they "helped to load the truck and was about the premises but had no knowledge that sugar was being stolen. They were doing their usual job. Their error lay in that having later learned about the theft each accepted the sum of 400 lire".

2. These papers, consist of:

- (a) A very clear and helpful "Statement of the Court" and
- (b) Forms 8 and (when submitted) Forms 11.

3. There is nothing, however, which purports to be a record: e.g. there is no note of the statement made by the prosecutor or of any point in litigation submitted by the "avvocati". In these circumstances it is impossible for the Reviewing authority to form any opinion except one based entirely on the "Statement of the Court". The Reviewing authority is left completely in the dark on many essential points such as the time of day (or night) of the theft, or how those charged under art. 640 P.C. acquired the sugar and how they knew it was the proceeds of a theft. One accused (VENERELLI) alleges in his petition that he bought the sugar after it had passed through four hands not knowing that it was stolen; and that therefore art. 712 P.C. was applicable and not art. 643.

4. Furthermore in regard to MARI Vincenzo, DE MASTRO Michele, GENNILE Giorgio, VESTIBILI Giuseppe and DE MARCO Pasquale, the Statement of the Court is that they "helped to load the truck and ~~was~~ about the premises but had no knowledge that sugar was being stolen. They ~~were~~ doing their usual job.

— Their error lay in that having later learned about the theft each accepted the sum of 400 lire".

5. Judging from that statement alone, they have committed

no offence under Italian law. They certainly are not guilty of "furto" under art. 624 nor would they appear to have committed the offence of "favoreggiamento personale" under art. 378 I.C., for to constitute such an offence there must be some active assistance given by the accused to a person after he has committed an offence e.g. by concealing him from the police.

The conduct of the accused in this case was passive and, in the absence of any special duty, the mere omission to report does not constitute an offence.

c. unless the record, when forwarded, discloses other facts against these four accused their conviction must be quashed.

by command of Major Admiral GEORGE:

10

M.P. MURPHY,
Colonel,
Deputy Chief Legal Advisor.

BF 7 Feb. 1976

1253

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4083/1/L.

24 January 1945.

SUBJECT : Case of LOSSA Riccardo.

TO : Regional Commissioner, TUSCANA REGION.
(Attn. Regional Legal officer)

1. In reply to your RVIII/19/3003 of 19 Jan 45. I have considered the informal petition on behalf of LOSSA, Riccardo and deny it. The documents are returned herewith.

2. It is sufficient for the purposes of this case to say that the petition raised no points which were not considered by the judge at the trial. Patriots must observe the law; while in appropriate cases due regard should be paid to the role they have played they cannot be treated as having, by their previous conduct, purchased a complete indemnity from future liability. The sentence in this case is severe but not unduly harsh. The crime is hooliganism of a most dangerous type.

3. It is difficult to supply any broader - or should I say more accurate? - yardstick than that contained in the Consolidated Instructions. Once the conviction and sentence have been affirmed it is necessary to bring to light at least some argument of law or some consideration of fact which was not brought to the attention of the original court or the reviewing authority. The weight to be given to this new factor must depend upon all the circumstances of the case. The underlying consideration is that it should raise at least a suspicion of "real injustice or undue hardship".

By command of Rear Admiral STONE.

W. E. BENHENS.
Colonel,
Deputy Chief Legal Advisor.

WRE/wcw.

116

NR

File
SECRET

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4083/1/L.

/pa.
23 Jan 45.

SUBJECT : Prostitution.

TO : Regional Commissioner, SOUTHERN Region.
(Attn: Regional Legal Officer).

1. Reference this HQ letter 4083/1/L of 22 Jan 45.
2. Forwarded herewith is a copy of Comd 56 Area letter which you may not have *reviewed*.

By command of Rear Admiral STONE :

Sgt R. G. H

W. E. BERRINS,
Colonel,
Deputy Chief Legal Advisor.

NA

SECRET

115

ALLIED COMMISSION
LEGAL OFFICE
BARI

Ref : B2/LEG/2/6163/C

19.1.45

Subject: Case record forwarded for review.

To : C.L.O. Legal Sub Commission, Hqs Allied Commission.

1. Record in case of CAMPOREALE, Arturo di Paolo, who was tried by an A.M. Superior Court at BARI on 15.1.45 is forwarded for the following reason:
2. It is submitted that the evidence for the prosecution which amounts to no more than to his being present at his normal place of work at an abnormal hour and at a time when other persons committed an offence is insufficient to justify a conviction for attempted theft. There are unquestionably grounds for suspicion, but it is submitted that in face of accused's evidence there was insufficient material before the Court to justify a conviction.
3. It is therefore recommended that conviction be quashed.
4. The attention of those responsible has been drawn to the unfortunate imprecision in drafting of the charge.

LEGAL SUB.COMMISSION

CLO

DCLO

Chief Counsel

CJO

Intell Section

CLERKS

J.A. BOYD-CARPENTER
Major, LC,
Apulia & Calabria

QUASHED

K

- ① Any obligation by the court to prevent commission of crime?
- ② If so, can he be convicted when charged with attempted theft.

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF : BZ/LEG/1/6163/O

19 Jan 45

SUBJECT : Application for Review of Sentence.

TO : C.L.O., Legal Sub-Commission, HQs Allied
Commission.

1. Forwarded herewith is application for review of sentence by SCAVO, Filippo di Nunzio together with record in his case, *and that of (CONSTANTINO, Giovanni)*
2. Having regard to comments of Trial Judge who saw the witnesses, it is submitted that conviction was proper, and should stand.
3. As, although the property concerned was small, this was an attempted theft by employees at BARI docks where such thefts are prevalent, it is submitted that it was proper for deterrent reasons.

LEGAL SUBCOMMITTEE

J. A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria

JABC/mk

22 JAN 1945

11

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF : BZ/LEG/2/6163/O

SUBJECT : Case of FANELLI, Giovanni.

TO : C.L.O., Legal Sub-Commission, HQs Allied
Commission

19 Jan 45

1. Forwarded herewith is record in case of FANELLI, Giovanni di Vito, for the following reasons.
2. Accused pleaded guilty to the serious offence of stealing a parachute and was sentenced to the prima facie proper sentence of 3 years imprisonment.
3. He is, however, only 16 years of age, and by reason of statement under evidence for defence on record as to accused's medical condition, this HQs ordered a medical examination. Report, attached, of prison doctor shows that he is in fact suffering from T.B. of one lung.
4. The normal practice of this HQs of requesting a transfer of prisoners of this age who receive long terms of imprisonment, to a riformatorio giudiziario cannot be followed in the present case, since they are less well provided with medical facilities than BARI gaol, and the life in them is somewhat too austere for a person in the medical condition of this boy.
5. It is therefore recommended that the proper course would be to suspend the sentence, as the retention in gaol of a tuberculous child would appear to serve no useful purpose.

Suspended
J.A. Boyd-Carpenter
J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria.

JABC/mk

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4083/1/L.

22 Jan. 1945.

SUBJECT : Case of Francesco CIOCE.

TO : Regional Commissioner (attn: Regional
Legal Officer), Toscana Region.

1. Will you please be good enough to forward the record in the case of Francesco CIOCE, employee of the Argentine Legation, who was arrested at or near Siena about 29 Dec. 44.

2. It is thought that the charge was in respect of travelling without a proper permit: but suggestions have also been heard that there may also be other charges.

3. The Argentine Legation has approached the Political Section of this Commission in regard to this case and the record is required to enable us to prepare a suitable answer.

By command of Rear Admiral STONE:

ic
W.F. BERRINS,
Colonel,
Deputy Chief Legal Advisor.

111

Bf
Feb 5

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

RVIII/19/3008.

Date: 19 Jan 45.

SUBJECT: Petition, case of LCSSA Riccardo.

TO : Legal Sub-Commission, Headquarters AC. ✓

1. After due consideration, it has been determined to transmit to you the informal petition of Partisans filed in behalf of the accused, LCSSA Riccardo. The record of the case accompanies the petition.

2. Under "Consolidated Instructions" there is a difference between a petition for review, and an informal petition. Under occupational law as enforced by Allied Government, a judgment of a trial Court is interlocutory; it becomes final on review. A petition for review is an integral part of the process in arriving at the final judgment to be rendered. All the elements together make for the total of a final judgment, which total is a completed judicial act.

3. Not to be confused with such judicial proceeding is the power of clemency. This power wisely belongs to and is an inseparable part of the political, as distinguished from the judicial, department of government. It exists in every known form of government. To invoke this power, it need not be shown that justice has miscarried; in a vast array of instances, the exercise of the power has no relation to an injustice done by a court. This is so because the yardstick for measuring its use, not injustice, but rather the extent to which such clemency will play in the total of functions of government. In short, clemency is neither moral or immoral; rather it is ~~un-~~amoral, and begins ~~before~~ before the law leaves off and extends beyond.

4. If the above premises are true, on its face, the enclosed petition warrants consideration by the executive authority. No opinion is expressed concerning the decision to be rendered. What is here said is in explanation of our reasons for sending forward the petition in question, as required by Art. 33, Consolidated Instructions. We are not equipped to recommend on the merits, and confine ourselves to recommending that it be given whatever consideration to which it may be entitled in the present total of occupational government.

5. It will be observed that we have written at length, not because we attach unusual importance to the case in question, but because we want your helpful suggestions as to where is the border line in these cases where mere clemency is involved? We are mindful of the enormity of the tasks with which you are confronted. We are using this case as a yardstick for our future guidance. May we have your comments, please?

JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer.

408.3

1245

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF : RIX/LE/650/340.

PLR/nee.
16 January 1945.

SUBJECT: PERUCINI Francesco, Summary Court Case No. 476.

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

Reference AC/4002/L, dated 7 December 1944.

1. The above named was convicted by a Summary Military Court on a charge under Proc. 1, Art. V, Sec. 44, of violation of Italian Rationing Law. Record of Trial and Application for Review are accordingly forwarded herewith for review.

For the Regional Commissioner:

F. E. Reynolds

F. E. REYNOLDS, Major,
D.R.L.C., Emilia Region.

2 Incls: as above.

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

19 January 1945

SUBJECT: Transmission of Enclosed documents
relating to review of sentences.

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

1. Pursuant to appropriate order I enclose
herewith form 3 and applications for review in
the case of VITTI Mario et al. In this case the
sentences exceeded 2 years imprisonment.

For the Regional Commissioner:

ETK/pv

TO	Chief Legal Officer
FROM	Regional Commissioner
SUBJECT	Transmission of Enclosed documents relating to review of sentences.
DATE	19 JAN 1945

L. F. Dawson
L.F. DAWSON, by *E. T. Kern*
Lt.Col., G.I.,
Reg. Chief Legal Officer

100

(1243)

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

25 January 1945.

AG/4083/1/L

SUBJECT : Case of UCELLO Corrado and others.
TO : Regional Commissioner (Attn: Regional Legal Officer),
SICILIA Region.

1. Herewith are returned the papers in the above case,
with decision on review endorsed on the form 8.

2. All convictions and sentences have been affirmed,
except the case of STRANO Angelo whose sentence has been
entirely suspended. Under Italian law sentences cannot be
suspended in part only.

3. Please see that STRANO Angelo is released.

By command of Rear Admiral STONE:

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser

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HEADQUARTERS
FLORENCE PROVINCE
ALLIED MILITARY GOVERNMENT

FL/1

15 January 1945

SUBJECT: Case of CAVALLARO Umberto

TO : R.L.O. HQ., AMG., Toscana Region

1. I am forwarding herewith an application made on behalf of CAVALLARO Umberto for a new trial or at least a supplementary hearing to present new evidence which is alleged to have just become available. The new evidence, however, does not appear to be sufficiently material on the merits to warrant a new trial but the information in regard to General Alessandro Santi may be a circumstance to be taken into consideration by the reviewing authority in rendering its decision on review.

HLG/PV

Encl.

HENRY L. GLENN, Major, JAGD.,
Legal Officer for the Province
and City of Florence

1st. Ind.

Headquarters, Toscana Region, 19 January 1945.

TO : LEGAL SUB-COMMISSION, HEADQUARTERS, AC. (Attn: Chief Legal Advisor).

I. Without reading thru the lengthy record in the case of CAVALLARO Umberto, (I have no clear knowledge of the facts), I am not able to determine if the petition for re-hearing has merit. In the saving of time, because the above case was only recently (13 January 45) reviewed by Colonel Campbell, can he determine from the paper whether it is of sufficient merit to require the record to be sent in ? I will withhold the record in the meantime.

JOHN K. WEBER,
Colonel, Infantry
Regional Legal Officer.

106

ALLIED COMMISSION
LEGAL OFFICE
BARI

19 January

1945

REF : BZ/LGG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : G.L.O., Legal Sub-Commission, HQS
Allied Commission

1. Forwarded herewith for review or expiry of 30 days from date
of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BTC/UTO/5/9. ANDRIANI, Raffae BAT/Sam/47. DE ANGELIS
(ERVONE, Andrea Ewaw
KLOZZI, Michele LAL/CE, Am. G.
DE ANGELIS Anbulla

BARI/5/64 BLASI, Francesco
Bari/5/66 MONO, Grazia
BARI/5/67 SCAVO, Nicola.
BARI/5/69 MATERA, Momo
BARI/5/70 TARRICONI, Luigi
BARI/5/71 STEFANELLI, Nicola
BELLACCHI, Rocco
BARI/Sam/43 PISATURA, Rocco

BUTENUTO/5/9. ANDRIANI, Raffaele
CERVONE, Andrea
LOROCE, Anna
DE ANGELIS
Archidiacono

BARI/5/64 BASI, Francesco
BARI/5/66 MONO, Grazia
BARI/5/69 SCAVO, Nicola
BARI/5/69 MATERA, Franco

BARI/5/70 TARRICONI, Luigi

BARI/5/71 STEFANELLI, Nicola

BELLACICCO, Pasquale

BARI/5um/43 MATURA, Rocco

BARI/5um/45 CILIBERTI, Alfredo

BARI/5um/46 BELLOCICCO, Francesco

A. Ruyt - (E) di

J. A. ROYD-CAMERON

Major, L.C.,

Apulia & Calabria

ALLIED COMMISSION
LEGAL OFFICE
HARI

18 Jan 45

Ref: B. 123/2/6163/0

Subject: - Case of SANFONO, Angelo and 32 others

To : - C.I.O., Legal Sub-Commission
HQs Allied Commission

1. Further to this HQs 22/123/2/6163/0 of 5.1.45.
2. Herewith application for review of sentence received from:

✓ SANFONO, Angelo
✓ SANFONO, Michele
✓ SANFONO, Michele
✓ SANFONO, Antonio
✓ SANFONO, Giuseppe
✓ SANFONO, Pasquale
✓ SANFONO, Raffaele
✓ SANFONO, Giovanni
✓ SANFONO, Vito
✓ SANFONO, Arcangelo
✓ SANFONO, Rocco
✓ SANFONO, Pasquale
✓ SANFONO, Francesco
✓ SANFONO, Giuseppe
✓ SANFONO, Vito
✓ SANFONO, Pasquale
✓ SANFONO, Bonaventura
✓ SANFONO, Angela

3. All these persons took part in a large scale deal in station W.D. property, and the sentences were ^{what} out by Trial Judge in accordance with his view of the differing responsibility of the persons concerned. It is submitted that these sentences are proper and should stand.

4. Ref para's 4 and 5 of this HQs letter under reference, DE FILIPPO, Michele has been recaptured, and is now held in EARL Guel pending directions from your HQs. ANTONIO, Michele has NOT been recaptured.

✓ POPPO, Raffaele
 ✓ CONSALVO, Giovanni
 ✓ DI GIULIO, Vito
 ✓ BRANDONISIO, Arcangelo
 ✓ LOCONUL, Rocco
 ✓ MARISI, Pasquale
 ✓ MARISI, Francesco
 ✓ ROSCONDINO, Giuseppe
 ✓ COSTANZA, Vito
 ✓ DE MARCO, Pasquale
 ✓ BALIBO, Bonaventura
 ✓ CALABRESI, Angela

3. All these persons took part in a large scale deal in stolen W.D. property, and the sentences were ^{sent} out by Trial Judge in accordance with his view of the differing responsibility of the persons concerned. It is submitted that these sentences are proper and should stand.

4. Ref para's 4 and 5 of this HQs letter under reference, DE FILIPPO Michele has been recaptured, and is now held in BARI Gaol pending directions from your HQs. ROCCELLO, Michele has NOT been recaptured.

T A Regd - (1/1)

J.A. ROYD-CARPENTER
 Major I.C.,
 Apulia & Calabria

104

JABO/12

6/5
 6/5
 6/5

4083/1
✓ALLIED COMMISSION
LEGAL OFFICE
BARI

1259

17 Jan 45

Ref: B2/IEG/2/6163/3

To: C.L.O., Legal Sub-Commission
HQs, Allied Commission

1. Forwarded herewith is application for review of sentence submitted by GABIA, Michele fu Giovanni, together with record in his case.
2. It is inconceivable that any inhabitant of BARI can at this date be unaware of the consequences of coming into improper possession of U.S. clothing.
3. It is submitted that the sentence is a proper one and should stand.

J. A. Boyd-Carpenter
J. A. BOYD-CARPENTER
Major L.C.,
Apulia & Calabria

JABC/im

4083/1

1238

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

L- 4006A

18 January 1945.

SUBJECT: Case of APONTE Claudio et al.

TO : Deputy Chief Legal Advisor, Legal Sub-
Commission, A.C., HQ, C.M.F.

1. Receipt is acknowledged of the record in the case of the above subject. This record will be returned to your HQ upon the completion of the case of Giuseppe BERTONI .

For the Regional Commissioner:

ETK/mo

L.F. Dawson
L.F. DAWSON, *By E.T. Hew*
Lieut. Colonel, G.L., *Major*
Reg. Legal Officer,
Southern Region, A.C.

LC

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73

TO : H.Q. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Petition for Review

REF. : R5/511/14/ANC

DATE : 19 Jan. '45



Herewith Record and Petition for Review in the Superior Court case of
GENTILE Giuseppe (D1/ANC/408).

R. G. S. Alexander
R. G. S. ALEXANDER, Major
R.L.O.

1237-12

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rca.

20 Jan. 1945.

AC/4053/1/L.

SUBJECT : Court sentences.

TO : Allied Commission Bari
(for legal officer).

Thank you for your letter BZ/LEC/2/6163/O of 16 Jan. 45, and the explanation therein: it may be that similar comments have been made in other cases: if you receive any such comments you will know they were sent prior to receipt of your letter.

By command of Rear Admiral STONE:

/c

W.E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

73

10

4083/1

ALLIED COMMISSION
SICILIA REGION HEADQUARTERS
APO 394

(1236)

FILE: RLE 013.04/EKM

16 January 1945

SUBJECT: General Military Court - Catania.
UCELLO Corrado & others.TO : Headquarters, Allied Commission - APO 394.
(Attn: Legal Sub-Commission)

1. I enclose 10 petitions for review in this case which terminated at Catania on 16.12.44. The record of the case has already been taken to HQAC by the President of the Court, Lt-Col. I.G.H. CAMPBELL.

For the Regional Commissioner:

sf

E.K. Matthews Maj.
E.K. MATTHEWS, Major,
Regional Legal Officer.

Encl: 10 petitions.

1235

HEADQUARTERS ALLIED COMMISSION
AP 394
LEGAL SUB-COMMISSION

/rm.

20 Jan. 1945.

AC/4087/1/3.

SUBJECT : Case of VETRUCI Brothers.
To : Regional Commissioner (for Regional
Legal Officer), Toscana Region.

Reference RVIII/19/3006 of 12 Jan. 45 and our
conversation at your HQ a few days ago.

1. I agree that "joint fines" are unknown to the law.
The duty of the Court is to assess whether each accused
before it is guilty of all or any of the charges against him
and then to impose against him an appropriate sentence in
respect of each charge on which he is found guilty. If the
sentence of the court is a fine, it is the further duty of
the court to specify the date by which it must be paid and
to fix a term of imprisonment in default of payment by
such date. Whether or not an accused shall be forced to
serve such term in default cannot be made to depend on whether
a co-accused pays a fine imposed on him.

2. As the Court has held all accused to be guilty
and the fine has been paid, it is suggested that on review
it will be better not to interfere with the sentence of the
Court. The accused are brothers and no doubt the total sum
will be found between them as they think fit, whether the
fine be left in its present (though incorrect) form or if
separate fines, totalling the same amount, are imposed on
them.

By command of Rear Admiral STONE:

JE

C.E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

IGMC/pe.
16 January 1945.

AC/1085/1/1.

SUBJECT : Case of SANTORO Angelo and 32 others.

TO : Allied Commission (for Legal Officer) BART Zone.

1. The trials of DE FILIPPIS Michele and PROCAOCIA Michele have been declared null and void. There is no provision authorizing trial in an Allied Military Court in the absence or temporary absence of the accused.

^{in brief} 2. It appears that the trial judge must have been guilty of an irregularity on arraignment the charges should have been read to the accused and the accused required personally to plead Guilty or Not Guilty. If this had been done, DE FILIPPIS could not accidentally have been tried in his absence!!!

By command of Rear Admiral STONE :

W. E. REEDER,
Colonel,
Deputy Chief Legal Advisor.

1233

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF : BZ/LG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.L.O., Legal Sub-Commission, HQs
Allied Commission

Turning 15
1944

1. Forwarded herewith for review on expiry of 50 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

B/TORONTO/5/8

(AIAI, GORIN)

~~BARA~~
BARA/5un/38

GRANATA, Nicola ✓

BARA/5un/40

UTRONA, PIERRE ✓

BARA/5un/41

TIMONIERE, Luigi ✓

BARA/5un/42

ROBINO, MARC ✓

No application for review of sentence has been received.

BUTONTO/5/8

~~GRANATA~~

BARI/5un/38

BARI/5un/40

BARI/5un/41

BARI/5un/42

CAIATI, Corino ✓

GRANATA, Nicola ✓

INTRONA, Pericle ✓

IMONIERE, Luigi ✓

RUBINO, Massimo ✓

93

T. H. Boyd-Carpenter

J. A. BOYD-CARPENTER

Major, I.C.,

Apulia & Calabria

0823

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

785016

1231

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

4083/1
AC/10074.

/rlp.
19 January 1945.

SUBJECT : Count MORRA Umberto.

TO : Political Sec.

1. In answer to your memo at Folio 6, Count MORRA was charged with attending a meeting in Allied Military Government Territory for which the requisite permit had not been obtained. In fact, Count MORRA was the speaker at the meeting which was extremely small.

2. Count MORRA was found guilty and sentenced to imprisonment for three months and to a fine of 5,000 Lire. This fine was promptly paid.

3. On the instructions of the Acting President, instructions were issued on 12 Jan 1945 that MORRA should be released forthwith. It has subsequently come to light that the local Allied Military Government authorities had very properly allowed MORRA and his co-accused to remain at liberty pending review of the case.

4. The case has now been reviewed by the Legal Sub-Commission who state that Count MORRA clearly failed to comply with the provisions of Proc.

3, Art. IV and that he was properly convicted. The sentence of the court has been reduced from 3 months imprisonment and a fine of 5,000 lire to a fine of 5,000 lire only.

5. The sentences on Count MORRA's co-accused have also been reduced to fines only.

G. R. UPJOHN, Brig.
VF CA Sec
Dep COS, AC

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

RVIII/19/3008

Date: 15 Jan. 45.

SUBJECT: Case of MORRA, Conte Umberto.

TO : Headquarters, AC (Chief Legal Advisor) ✓

1. See your letter 10 January 45, AC/4017/L.

2. On 6 January 45 there was received signal GMP No. 9290, asking for a report on the above case. Our letter RVIII.19/3008 of 6 January 45 was sent your office for ~~your~~ ^{your} information. Thereafter, on 10 January 45 the record in the case was dispatched to your office. A second signal, GPM No. 591, dated 10 January 45 was received and answered by these Headquarters on 11 Jan. 45, No. 19.

3. It would seem that it was assumed, (apparently incorrectly) that the signal originated in your office. At any rate, such was the information received by this office, and explains the prompt action taken in answering the request and in transmitting to you the information and record in the case.

For the Regional Commissioner.

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

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

NA

10

19 Jan

File
40837

1st Ind.

Legal

1229

HEADQUARTERS AMG FIFTH ARMY APO 464 U.S. ARMY

13 January 1945.

TO: Legal Officer, Toscana Region.

208/4

Forwarded for such action as you deem necessary.

For the Commanding General:

Znx Kntz

HEADQUARTERS TOSCANA

D.R.B. MYNORS,
Major, Scots Guards,
Operations Officer,
A.M.G. Fifth Army.

RVIII/19/3008

2nd Ind.

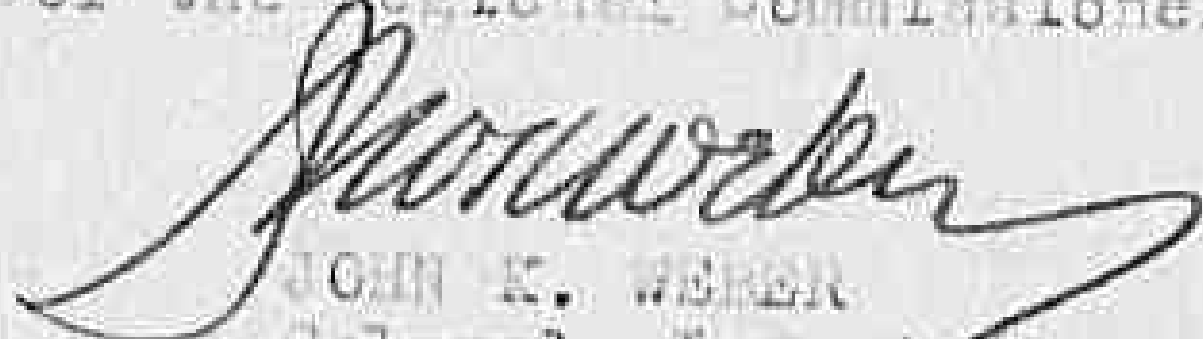
Headquarters, Toscana Region, 16 January 1945.

TO: HEADQUARTERS, AC. -Attention Chief Legal Advisor. ✓

1. The record of trial in the case of MORRA, Conte Umberto, has been sent to the Chief Legal Advisor.

2. Reply thru channels has been made, advising of the release of MORRA, Conte Umberto, as directed by higher authority.

For the Regional Commissioner:


JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

LEGAL SUBCOMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	1e
Italian Section	
CL RKS	
19 JAN 1945	

No action
required

1e

19 Jan

93

HEADQUARTERS
FLORENCE PROVINCE
ALLIED MILITARY GOVERNMENT

FG/86

10th January 1945.

SUBJECT : Arrests
TO : S.C.A.O. A.M.G. 5 Army APO 464

hereunder is an extract of a letter which I have received from Mr. Bernard Berenson who is, as you undoubtedly know, one of the most celebrated Americans resident in Italy.

" We learn that Count Umberto Morra di Lavriano was arrested a few days ago by our authorities for speaking without permission to his fellow-citizens at Cortona.

" Count Morra is the son of a distinguished general and ambassador of the time of King Umberto. Disabled by infantile paralysis from following the military career of his Piedmontese ancestors he has devoted himself to a military life and to the study of politics. He is well known in the intellectual, literary and political circles as a man of great intellectual probity and courage. He has always been anti-Fascist, anti-Imperialist and sympathizer with Anglo-American political ideas and ideals. In the last plebiscite called for by Mussolini in 1932 or '33, Morra was perhaps the only one in his Province (Arezzo) to vote NO. For this action he has constantly tracked by Fascist police for years afterwards. But they did not dare to arrest him, let alone to imprison him or put him in a concentration camp.

" What the Fascists dared not do our authorities have done. Knowing Count Morra as I do for a law-abiding person I cannot believe that he deliberately contravened an order. What must have happened is that returning from Rome, where he had been private secretary to Ciano (Minister in the last Government), fellow-citizens acclaimed him and shouted 'speech, speech'.

" Morra arrest has produced something like stupor, and if he is not liberated without delay may lead to bad feeling against us in the influential classes that have been and still want to be most friendly to us.

" Could you not put the case to the magistrate stationed somewhere near Lucca who has it in hand? You would be doing a service to all of us."

Would it be possible for this case to be reviewed as early as possible, please.

RLR/ag

RAIPH L. ROLPH
Lieut. Col. R.E.
Provincial Commissioner.

ALLIED COMMISSION
LEGAL OFFICE
BARI

16 Jan 45

Ref: B3/IE3/2/6163/0

Subject:- Case of TOTA, Gennaro

To :- C.L.O., Legal Sub-Commission
Hqs, Allied Commission

1. Ref your AC/4083/1/L of 12.1.45.
2. In fairness to Trial Judge it is thought proper to ~~point~~ out that two separate sentences were imposed on instructions of R.L.O., Southern Region that separate sentences be imposed in all cases where there was more than one charge.
3. This ruling, which overruled a decision of L.O. this Hqs, was withdrawn in ~~con~~ing letter from R.L.O. forwarding your AC/4173/1/L of 29.11.44.
4. Other sentences, however, passed during period of currency of this ruling may now be under consideration of your Hqs.
5. Attention of Trial Judge has been drawn to Consolidated Instruction Art. 14 - 4 (b) as directed.

J.A. Boyd-Carpenter
Major I.O.,
Apulia & Calabria

Copy to:

Major F.E. Young

Capt Bryce: to see: no further
Comments to be made on this point in any
case tried before 16 Jan. ~~1/13~~

+3/

4083/1/L
1226

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

L-3028 A.

18 January 1945

SUBJECT: Case of FUSCO Giuseppe.

TO : Deputy Chief Legal Advisor, Legal Sub-Commission,
Allied Commission, H.Q., C.M.F.

1. Reference is made to your communication AC/4083/1/L dated 16 January 1945.
2. Upon investigation I find that "the way that leads to Capodichino where the air field is" is within the Commune of Naples.

For the Regional Commissioner:

ETK/mo

L. F. Dawson
L.F. DAWSON, *By E. T. Kern*
Lieut. Colonel, G.I., *maj*
Reg. Legal Officer.

ENCL-
Complete file.

1225

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AMT/pa.
19 Jan 45.

NO/4083/1/L.

SUBJECT : Truck in possession of STORAI Dino.
TO : Regional Commissioner, TOSCANA Region.
(Attn: Regional Legal Officer).

1. Reference is to your RVIII/19/3008 and papers returned herewith.
2. This seems to be a purely Italian problem, the parties to the case as well as the subject matter being Italian. It is suggested, therefore, that the decision be left to the Italian authorities.

By command of Rear Admiral STONE :

Ref
A. B. THACKRAE,
Lt. Colonel,
Italian Branch,
For Chief Legal Advisor.

Enclos.: Papers.

J

483/1

DR. DOMEN TI'S

OPINION ON

STORAI BINO

19 Jan 45

(1224)

Subject: Truck in possession of Storai Bino T/H StellaTo: H. Col. Thakrah

1. - File perused -

2. - The question seems to me to be a purely Italian matter. The controversy is between Italians and has to be decided according to Italian law - I understood that the case was brought before an Italian Court.

3. - I would suggest that H.A.C. do not take any step and leave the decision with the Italian Authorities

Phonembo

18.1.45

AG 250.1 BPSFM (12 Jan 45) 1st W/Ind. LSV/rdb
 HEADQUARTERS PENINSULAR BASE SECTION, APO 782, U.S. Army, 12 January 1945
 To: Chief Prosecutor, AC, Tribunal 1, PBS, APO 782, U.S. Army.

1. Forwarded herewith is CID Report #57, for your information.
2. Request acknowledgement of receipt by indorsement hereon.

For the Commanding Officer:

L. J. ROBERTS,
 Captain, AGC,
 Ass't Adj. Gen.

1 Incl,
 CID Report #57

LC/4083/1 (19 Jan 45) 2nd W/Ind. MAN/jpl
 HEADQUARTERS ALLIED CONTROL COMMISSION, APO 394, U.S. Army, 19 January 1945
 To: HEADQUARTERS Peninsular Base Section, APO 782, U.S. Army

This communication and inclosure was delivered to Allied Commission
 in error, returned herewith.

Sgt. By W. E. BARRINE
 W. E. BARRINE
 Colonel
 Deputy Chief Legal Adviser

1 Incl,
 CID Report # 57

CONFIDENTIAL

HEADQUARTERS MILITARY COMMISSION
APO 394
LEGAL SUB-COMMISSION

IGHC/pa.
18 Jan 45.

AG/1083/1/L.

SUBJECT : Case of CAVALLARO Umberto, and CASULLO Arturo.
TO : Regional Commissioner, TOCSEA REGION.
(Attn: Regional Legal Officer).

Ref Rvm/19/3008 of 10 Jan 45

1. Returned herewith are the petitions submitted on behalf of CAVALLARO Umberto and CASULLO Arturo.

2. They have been considered and disclosed no grounds for varying the decisions on Review dated 12 January 1945. (some 49 days after the date of conviction).

3. Please so inform the petitioners.

4. The petitions, with this letter, ^{should} ~~must~~ be kept with the record.

By command of Rear Admiral STONE :

W. E. REBERS,
Colonel,
Deputy Chief Legal Advisor.

INCL.

1222

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

LMCC/pa.
18 Jan 45.

AC/4083/1/L.

SUBJECT : Case of MORRA Gemaro, MOSCHINO Cosimo and others.

TO Regional Commissioner, SOUTHERN Region.
(Attn: Regional Legal Officer).

1. These petitions disclose no ground for varying the Decision on Review dated 5 Jan 45. Please so inform the petitioner.

2. The petitions with this letter should be kept with the record.

by command of Rear Admiral STONE :

W. R.

W. R. STONE,
Colonel,
Deputy Chief Legal Advisor.

Incls.

KJ

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1221
AC/1005/1/1.

1221
IGC/pa.
18 Jan 45.

SUBJECT : Cases of MISURILE Saverio and MODURNO Francesco.
TO : Allied Commission, (for Legal Officer) BARI Zone.

1. Your attention is drawn to the two attached records (MISURILE Saverio and MODURNO Francesco).

2. The two accused, or more accurately, the two convicts, are hardened old criminals aged 42 and 45 years respectively.

3. They were convicted under PG 712 of acquiring or receiving articles of suspicious origin. MISURILE stated (and it seems quite reasonable) that his mother had bought the clothes to make them into clothes for him. There is no evidence to the contrary and it is thought that the mother and not the small boy should have been tried and convicted.

4. (a) It appears from the court sentences that they were both kept in prison from 27 Nov - 9 Dec (12 days) awaiting trial: presumably this was because it was the very early days after the establishment of the Courts and would not happen now?

(b) It is thought that the 12 days in prison were a very adequate punishment for the offences which the accused may have committed.

5. As has been pointed out in other recent cases: (a) NO sentence in default of payment of the fine should have been imposed, and (b) Art. 712 carries imprisonment or fine: as the court sentenced the accused to imprisonment, (albeit for the time already spent in prison) the imposition of the fine was illegal. The sentences have been adjusted accordingly and the fine must be repaid.

By command of Rear Admiral STONE :

1c
W. E. BENTON,
Colonel,
Deputy Chief Legal Advisor.

MA
X

4083/1

0 0 0

0 0

122

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

16 January 1945

SUBJECT: Transmission of Enclosed Documents
relating to review of sentences.

TO : Chief Legal Officer, Legal Sub-Commis-
sion, A.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 year imprisonment or 30 days
expired.

Name	Court	Date of trial	Docu- ment
SCHETTINI Luigi, et al.	Sup.Ct.,	15 Dec 44	Form 8, and Appl.
DI PINTO Vincenzo, et al.	" " No.7	" " "	" "

For the Regional Commissioner:

LEGAL SUB-COMMISSION	
CLO	
SOLO	
Chief Counsel	
CJO	
Italian Section	
ETK/pv CL RKS	
1945	

L. F. Dawson
L.F. DAWSON, By *E. T. Pen*
Lt.Col., G.L., Major
Reg.Chief Legal Officer.

(1289)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4083/1/L.

17 Jan. 45.

SUBJECT : Application for review of sentence
SAVELLI Vladimiro.

TO : Regional Commissioner (for Regional Legal
Officer), Toscana Region.

1. Returned herewith is the application for review of sentence presented on behalf of SAVELLI Vladimiro.

2. This case had already been reviewed at this H.Q. before receiving this application and the sentence substantially reduced viz: from three years imprisonment to six months.

3. The petition discloses no reason for varying the previous decision on review.

4. Please place the petition with the rest of the papers.

by command of Rear Admiral STONE:

(NR)

W.E. BEMERS,
Colonel,
Deputy Chief Legal Advisor.

40837

1218

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF : B2/LG/2/6150

SUBJECT: Case record(s) forwarded for review.

TO : J.L.O., Legal Sub-Commission, HQs
Allied Commission

Jan 13th
1944

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BAR/5/22 DE BENEDETTO, Giacomo
BAR/5/23 LONGO, Paolo
BAR/5/34 GALLO, Structure.
BAR/5/36 BRATTA, Nicola
VITELLI, Caselle.
BAR/5/39 TAMMA, Vincenzo

BARI/5/23 LONGO, Nino
 BARI/5/34 GALLO, Francesco
 BARI/5/36 BRATTIA, Nicola
 VITTOCI, Carrelhe.
 BARI/5/39 TAMMA, Vincenzo
 LAMPETTA, Anna

81

A. Boyd-Carpenter

J.A. BOYD-CARPENTER
 Major, L.C.,
 Apulia & Calabria

1217

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4083/1/1.

17 Jan. 1945.

SUBJECT : Case of ALONTE Claudio et al.

TO : Regional Commissioner (attn: Regional
Legal Officer), Southern Region.

1. Returned herewith, by hand of Staff Sergeant
Louis PADULA, is the record of the proceeding against
ALONTE Claudio and others.

2. It is understood that the several documents are
required in another proceeding.

3. Please return the record so that the proceedings
may be reviewed.

By command of Rear Admiral STONE:

W.F. Stevens
W.F. STEVENS,
Colonel,
Deputy Chief Legal Advisor.

B.F. 31 Jan
BE

81

+S

TO : H.Q. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Superior AMG Cases of MARRONI Claudio Macerata No 121
GARBULA Luigi 122
CENSORI Giacomo 123

Ref. : R5/511/14/M

DATE : 15 Jan. '45

RECEIVED
16 JAN 1945

1. Record in above named cases forwarded for review, tried together.

For the Regional Commissioner

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	16 JAN 1945

R. G. S. ALEXANDER, Major
R.L.O.

5960

H083/1

1215

TO : H.Q. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Case of MERLINI Celestino Sup AMG Macerata No 124

REF. : R5/511/14/M

DATE : 15 Jan. '45

1. Record and exhibits of above named case forwarded for review.

For the Regional Commissioner

CLD	
CLD	
Chief Counsel	
CLD	
Legal Section	
CLD	
15 JAN 1945	

16 JAN 1945

R. G. S. Alexander
R. G. S. ALEXANDER, Major
R.L.O.

5961

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1214

AC/4083/1/L

16 January 1945.

SUBJECT : Case of FUSCO Giuseppe.

TO : Regional Commissioner, (for Regional Legal Officer)
SOUTHERN Region.

1. Please confirm that "the way that leads to Capodichino where the air field is" lies within the Commune of Naples. The Record p. 1, where sidelined, refers.

2. Please return the record with your answer.

By command of Rear Admiral STONE:

BF 30 Jan.

C

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

Encl 1 Record.

XJ

HEADQUARTERS
FLORENCE PROVINCE
ALLIED MILITARY GOVERNMENT

LEGAL 1213

FL/1

11 January 1945

SUBJECT: Case of LATINI Lato

(AC, NO. 21)

TO : R.L.O. HQ., AMG., Toscana Region

1. I am returning to you herewith my acknowledgement of receipt of decision on review in the case of LATINI Lato.

2. This is to assure you that in accordance with instructions of Legal Sub-Commission letter 30 December 1944 (AG/4083/1/L) the decision on review has been communicated to the prisoner, among others, and he has been informed of the meaning of a suspended sentence.

15 JAN 1945

HENRY L. GILMAN, Major, JAGD.,
Legal Officer for the Province
and City of Florence

HLG/TV

Encl.

c/c = Chief Legal Advisor
Hagerro, ac.

R

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

Rum/9/3008

Date: 12 January 1945.

SUBJECT: Case of VANNUCCI Brothers, #2678.

TO : CHIEF LEGAL ADVISOR, Headquarters, AC.

1. The record of the above case, herewith enclosed, is before this office for review. Of import is the sentence rendered, which is a "joint" sentence against three defendants. Is such sentence one that is authorized under "Consolidated Instructions"?

2. We have no difficulty with the argument that if one is defrauded by a partnership, in a civil action sounding in Tort, a joint and several judgment would lie against the partners for the damages sustained. That is so because of the fiction of agency that prevails in partnership law. The judgment is for the recovery of a thing, usually money.

3. We do not understand that this doctrine prevails in Criminal Law, wherein the State alleges against a principal or accomplice an act that violates the peace and dignity of the State. The judgment usually goes to the liberty of a person.

4. In the instant case, if two of the defendants were ready, willing and able to pay off their fine, but the third was not, yet, nevertheless they must be deprived of their liberty, because of the whims of a third person, aided by a decree of law. We do not understand that personal liberty can be placed on such flimsy foundation.

5. Are we in error in our thinking? Your views are solicited, not only for our guidance in the instant case, but also for instruction of judges in cases of this character in the future.

6. May all the papers be returned, please.

LEGAL SUB COMMISSION	
CLO	
CCLO	
Chief Counsel	
CLO	
Adm. Section	
CL RKS	
16 JAN 1945	

JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref: RV111/3008

Date: 11 January 1945.

SUBJECT: Case of Conte Umberto Morra et al.

TO : Chief Legal Advisor, Headquarters, AC.

1. In view of the signal received from your office concerning the present status of the case of CONTE MORRA, Umberto, wherein a report of the present status thereof was requested, There is enclosed herewith the record in such case (which includes the companion cases) which gives all the information we have on the topic.
2. The record was received this day from Arezzo. It has been examined, and as a result of such examination, release of all the accused has been directed, pending final decision of the case.
3. If the Chief Legal Advisor wishes to make the review of the case, all papers are enclosed. If it is desired that this office review the case, it is requested that the record be returned to this office.

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

LEGAL SUB COMMISSION	
CLO	
SCLO	
Sh of Counsel	
CL	
Italian Section	
CL RKS	
16 JAN 1945	

0847

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

785016

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

Legal (1210)

File Ref:

RVIII/19/3008

Date: 12 January 45.

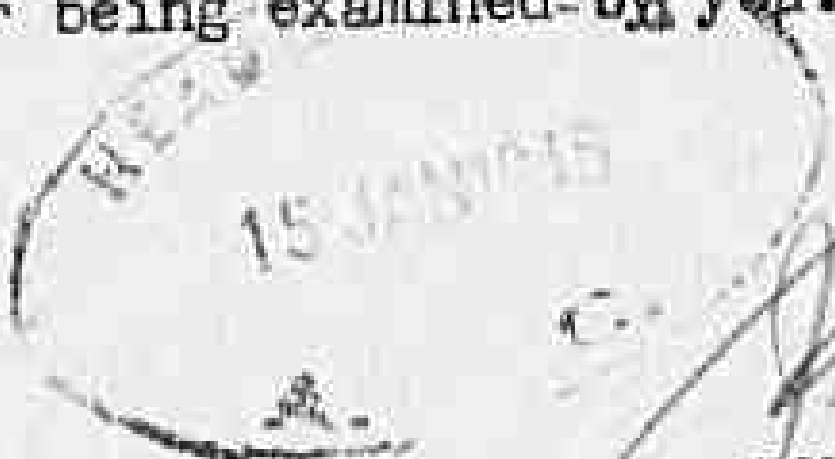
SUBJECT: Truck in possession of STORAI, Dino.

TO Chief Legal Advisor, Headquarters, AC.

1. This letter is in reply to the office action sheet which you sent to this office, and which is returned herewith.

2. It will be observed from the enclosed report made to this office on or about 1 Dec. 44, that the controversy is pending before the Italian Courts at Livorno, both as to possession and ownership. It was and is my opinion that decision on these questions is a matter for the Italian Tribunale and not AMG Courts. Do you agree?

3. The report from the Provincial Legal Officer, Livorno, and the Summary of the facts prepared by Dr. Ugo Bassano, constitute our record. We were not momentarily prepared to copy the same, due to our recent move and employment of new personnel; it is requested that these papers be returned to us after being examined by you.



[Signature]
JOHN K. WEBER,
Colonel, Infantry
Regional Legal Officer.

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
16 JAN 1945	

40031
HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

Rviii/19/3008

Date: 12 January 45

SUBJECT: Case of BENVENUTI, Louis

TO: Chief Legal Advisor, Headquarters, AC. ✓

1. The above case, the record of which is enclosed, purports to charge the accused under Proclamation I, Article VII, and to find the accused guilty, though the only penalty assessed is "leather confiscated by the Commune". No indication is made of what provision of Italian Law has been violated. The accused is fifteen years of age.

2. This is a Fifth Army 'spearhead' case. Article 14, "Consolidated Instructions" speaks of the Regional Commissioner, but no provision is made for these 'spearhead' situations, (which require delicate handling at times). Under the circumstances, I am passing the record to you, though frankly, it is in an unsatisfactory shape. I have sought, with some zeal, to have all concerned comply with the rules, and particularly have stressed the need for record being what it is purported to be, a record. Cases like the instant one, if not made out properly in the first instance, when returned for additional information, usually have little of value added to them, due to the fluid situation.

(x) "Our aim is to serve
In our zeal we may err."

LEGAL SUBCOMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Italian Section	
CLERKS	
16 JAN 1945	

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

← Your comments will be appreciated, please
Wads, at least
Fail me. Hqs. 111
12

(R)

HEADQUARTERS
TOSCANA REGION
16 JAN 1945
A. C.

4083/1
HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

1208

REF : RIX/LE/650/317.

PER/nee.
14 January 1945.

SUBJECT: FIAMMINGHI Maria, Summary Court Case No. 507.

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

1. Reference AC/4002/L, dated 7 December 1944.
2. Enclosed herewith for review is record of trial of the above Summary Court case.
3. The accused was convicted under Proc. 1, Art. V, Sec. 44 for violation of Italian Rationing Law.
4. Instructions have been issued to all CACs and Provincial Officers that in future, such cases are only to be tried after advice has been obtained from the Provincial Legal Officer on the drafting of the charge and the conduct of the trial.

For the Regional Commissioner:

P. E. Reynolds
P. E. REYNOLDS, Major
D.R.L.C., Emilia Region.

1 Incl:
Record of Trial -
FIAMMINGHI Maria.

HEADQUARTERS UNITED STATES
 ARMY
 Legal Sub Commission

1207

1374

AS/400/1

17 Jan. 49

Subject: Case of ALBERTO MARIAGUARD

To : Regional Commissioner, (for Regional Legal Officer)
 Latin American Region.

Returned herewith is Mr. Byron C. Taylor's letter on the
 above subject which was inadvertently retained in this office.

W. S. HARRIS
 W. S. HARRIS
 Colonel
 Deputy Chief Legal Advisor

Enc: 1 letter

X5

61

4083/1 9206
ALLIED COMMISSION
LEGAL OFFICE
BARI

12 Jan 45

Ref: BZ/LEG/2/6163/C

Subject:- Case of SANTORO Angelo and 32 others
(BARI/S/24 to BARI/S/56)To :- C.D.O., Legal Sub-Commission
HQs Allied Commission

1. Further to this HQs BZ/LEG/2/6163/C of 5.1.45 forwarded herewith are applications for review of sentence submitted on behalf of

DE NITTO, Tommaso
and LOMBARDI, Giuseppe

2. Having regard to the gravity of the offence, it is submitted that the sentences are proper and should stand. It may be added that these sentences have already had a salutary effect on the more prosperous local dealers in W.D. property.

J.A. BOED-CARPENTER
Major I.O.,
Apulia & Calabria

XS

Je

70

040831
✓

1205

ALLIED COMMISSION
LEGAL OFFICE
BARI

11 Jan 45

Ref: BZ/LEG/2/6163/O

Subject:- Application for review of sentence

To :- C.L.O., Legal Sub-Commission HQs
Allied Commission

1. Forwarded herewith is application for review of sentence in case of MACKONE, Francesco, together with record in his case.
2. Though not a "minorenne" as stated he was NOT quite twenty at time of trial, and it is submitted that sentence ^{shall} be reduced or in part suspended.

✓ *A. Ryd-Allen*
J. A. BOYD-CARPENTER
Major I.C.,
Apulia & Calabria

75
Reduced
from 2 yrs to 1
5,000 to 1,000
✓

19

69

HEADQUARTERS ALLIED COMMISSION
AFO 390
LEGAL SUB-COMMISSION

/P.

AC/4083/1/L.

15 Jan. 1945.

SUBJECT : Case of MARIGLIANI Alessandro.

TO : Regional Commissioner (att: Regional
Legal Officer) Lazio-Umbria Region.

1. With reference to Mr. Myron O. TAYLOR's letter of 10 Jan. about the case of MARIGLIANI Alessandro. MARIGLIANI was charged with wrongful possession of the following articles namely:-

59 Pkts Fruit spread	61 Pkts Soup
108 Pkts Dinner Nation N.2	20 Pkts Matches. 1 Doz. each
2 Prs Shoes U.S. Army	12 Tubes Shaving Cream F.X.
3 Petrol Tins containing:	1 Sack containing:
12 Gallons Petrol	1 Combat Suit U.S. Army
1 Case Loose Biscuits	2 Raincoats do
2 Bags Loose Biscuits	4 Windbreaker Jackets. do
Approx. 112 lbs.	2 shirts U.S. Army
119 Boxes Biscuits	3 Pairs trousers do.

It is accepted that MARIGLIANI is a man of good character: it is also accepted that MARIGLIANI probably did help the allies: but in so doing he also helped himself to many articles.

2. On conviction he was sentenced to imprisonment for 3 years which sentence was reduced on review to 1 year.

3. I feel sure that Mr. Myron TAYLOR, when he knows the facts, will appreciate that wrongful possession of such a quantity and variety of American food and other stuffs must be punished firmly.

By command of Rear Admiral STONE:

Enc: 1 Record

NR.

W.F. BERNHENS,
Colonel,
Deputy Chief Legal Advisor.

Letter of MYRON TAYLOR
SENT UNDER SEPARATE
COVER. 17 Jan 45

1203

ALLIED COMMISSION
LEGAL OFFICE
BARI

June 11
1944.

REF : B2/LIG/2/6150

SUBJECT: Case record(s) forwarded for review.

TO : C.I.O., Legal Sub-Commission, HQs
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial ~~is~~ are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BARI/5/18 ALTINI, Umanzo
BARI/5/19 LASERRA, Ruggero
BARI/5/21 BASILE, Angela
BARI/5m/34. ORLANDO, Paolo
BARI/5m/35 TROLLI, Francesco

67

BARI/5/18 ALTINI, Vincenzo
 BARI/5/19 LASERRA, Ruggero
 BARI/5/21 BASILE, Angela
 BARI/5m/34. ORLANDO, Paolo
 BARI/5m/35 TROULLO, Francesco

T.A. Boyd-Whit

J.A. BOYD-CARPENTER
 Major, I.C.,
 Apulia & Calabria

+

4083/1

1202

HEADQUARTERS ALLIED COMMISSION
CIVIL AFFAIRS SECTION

Ref. 17/6/CA.

14th January, 1945.

MEMORANDUM

SUBJECT: Umberto Amaro.

TO : Chief Legal Adviser.

1. I understand the above named has been released from prison.
2. Will you please write to Toscana Region and explain the exact reasons for his release, i.e. that in view of his outstanding services to the Allies the Acting President desired his release as a matter of clemency, and pointing out that in view of the urgency of the matter and of the move of Regional Headquarters communication was made direct to Provincial Headquarters.
3. Will you also please withdraw the case from Regional Headquarters and review it at this Headquarters. You may well think that the other accused should, in the circumstances, be permitted some remission of sentence.

LEGAL SUB-COMMISSION	
C.O.	
DDO	
Chief Counsel	
CL	
Region Action	
CL RKS	
14 JAN 1945	

G. R. Upjohn

G.R. UPJOHN, Brig.
VP CA Section.
DCOS.

① Name should be MORRA

② Action taken - See
Index 1196

③

XJ

1201

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

12 January 1945

SUBJECT: Case of APONTE Claudio et al.

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

1. Attached hereto is the form 8 and applications for review in the case of the above subject. In this case the sentences exceeded 2 years imprisonment.

For the Regional Commissioner:

17 Jan 45
Sent to 2 Region
w/o review
H. word of
Sgt. Patis
1/4 letter
ETE/pv

LEGAL SUB-COMMISSION	
CIO	
DOLO	
Chief Counsel	
CIO	
LEGAL DIVISION	
CL RKS	
14 JAN 1945	

L. F. Dawson,
Lt. Col., G.L.,
Reg. Chief Legal Officer.

By E. T. Derr
Major

6

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

RVIII/19/3008

Date: 10 January 45

SUBJECT: Reviews - DE BLASIO, Giovanni ; CONTI, Giuseppe.
TO CHIEF LEGAL ADVISOR, HEADQUARTERS, AC.

I. Petition for review is inclosed, purporting to be filed in behalf of DE BLASIO, Giovanni, CONTI Giuseppe and MARCONCINI Amleto. Thru error, the record in the case, bearing our number 2867, was dispatched prematurely to your office on 28 December 44. In that connection, we have taken steps to guard against such error in the future.

2. While the petition contains the name of MARCONCINI Amleto, our file indicates that such defendant was found not guilty. We have been informed orally that the name of MARCONCINI Amleto was inadvertently included by the person who prepared the petition on behalf of the Attorney.

3. The Provincial Legal Officer, Livorno has been advised that as to the accused TOFANI, Liberto, no appeal is contemplated.

JOHN K. WEBER,
Colonel, Infantry
Regional Legal Officer.

LEGAL SUB COMMISSION	
CLO	
DOLO	
Chief Counsel	
CIO	
Italian - Section	
CLERKS	
13 JAN 1945	



0859

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

785016

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

RVIII/19/3008

Date: 10 January 45

SUBJECT: Review CAVALLARO Umberto R 2569

TO : CHIEF LEGAL ADVISOR A.C. ✓



I. Enclosed find Application for Review of Cavallaro Umberto R 2569 with remarks of trial judge Maj. Bamlet. The record has been forwarded as there is another defendant CATULLO Arturo, sentenced to five years.

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

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	✓
Information Section	
CL RKS	
14 JAN 1945	

63

1198

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AO/4087/1/L.

13 Jan. 1945.

SUBJECT : Case of TULLO Fedele, GIOVANIELLO
Arturo, SACCENTE Giuseppe.

TO : Allied Commission, (For Legal Officer)
Bari Zone.

1. Returned herewith is the record of the case of the above accused.

2. On review the convictions against TULLO and GIOVANELLO have been quashed.

3. The reason is that although possibly, indeed quite probably, these two men were guilty of the offence charged, the only evidence against them was the accusation made by the other accused SACCENTE. This accusation they at all times most strenuously denied.

It was felt that such evidence of a co-accused, without any corroboration whatsoever, was not sufficient to justify convicting these two accused even though strictly at law corroboration is not essential.

4. The conviction of SACCENTE has been affirmed but the sentence has been reduced to 6 months reclusionione.

5. Will you please see that this decision is communicated to the above persons.

By command of Rear Admiral STONE :

R

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W.F. BARRON,
Colonel,
Deputy Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION
AFD 394
LEGAL SUB-COMMISSION

(117)
/rm.

AC/AQ83/1/L.

13 Jan. 1945.

SUBJECT : Case of MONACO Gennaro.

TO : Regional Commissioner (for Regional
Legal Officer), Southern Region.

1. Returned herewith is the application for review submitted on behalf of MONACO Gennaro.

2. This application raises no point of substance that was not considered by the court and by the reviewing authority.

3. The decision taken on review 8 Dec. 44 will therefore remain unchanged.

By command of Rear Admiral STONE:

W.F.
W.F. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

1196

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

IGHC/ma.
13 Jan 45.

AC/4083/1/1.

SUBJECT : Case of MORRA Umberto.

TO : Regional Commissioner, TOSCANA Region.
(for Regional Legal Officer). 2 copies

1. On or about 1 January 1945 in Arezzo Province one Count Umberto MORRA was tried and sentenced to 3 months imprisonment for holding a meeting without the necessary permission.

2. On the personal instructions of the Acting President of the Allied Commission (Mr. Harold Macmillan M.P.) the Acting Provincial Commissioner Arezzo Province has been instructed by telephone to release the man immediately.

3. The Acting President wishes it to be made clear to MORRA and to all others that his release is an act of clemency having regard to the help which he has given to the Allies in the past: it is in no way intended to suggest that he was wrongly convicted or that the sentence was, per se, excessive. The facts which have motivated the Acting President were not known to the Court at the trial.

4. Please bring the above to the notice of the AMG Authorities at Arezzo.

5. The record of the trial of MORRA and of any others tried in connection with the same meeting will be forwarded immediately to this HQ for review.

By command of Rear Admiral STONE :

ke
W. E. BRIDGES,
Colonel,
Deputy Chief Legal Advisor.

BF- 27 Jan

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HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

40837

1195

File Ref:

RVIII/19/3008

Date: 6 January 1945.

SUBJECT: Case of COUNT UMBERTO MORRA.

TO: Chief Legal Officer, Headquarters, AGV

1. This is in reply to your signal this day received which relates to the above case.

2. The only information which we have on the case is a signal report transmitted as a part of the Provincial Situation Report, and reads as follows: "Count Umberto Morra sentenced by AMG Four for participation in public meetings." The record of trial has not been received.

3. A request for particulars has been sent to the Provincial Legal Officer, Arezzo Province. Such request has been transmitted thru the available means of communication. When a report is received, it will be transmitted to your office.

4. Being inferred that this method of reply to your signal will reach you sooner than reply by signal, it is accordingly being sent in this form.

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

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1194

4083/1/L
AG/4017/L/ret.
10 January 1945.

SUBJECT : Case of Count Umberto MORRA.
TO : Regional Commissioner (Attn: Regional Legal Officer),
TOSCANA Region.

1. Reference your RVIII/19/3008 of 6 Jan. 45.
2. Nothing is known of this case at this Sub-Commission and no signal has emanated from this office on the subject.
3. It is presumed this Sub-Commission was addressed in error. If not please reply quoting date and reference number of signal mentioned in para 1. of your above quoted letter.

By command of Rear Admiral STONE:

NR

W. E. BREUREN,
Colonel,
Deputy Chief Legal Advisor.

0865

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

785016

file

HEADQUARTERS ALLIED COMMISSION
APO 394
Legal Sub Commission

1193

/jpl

AC/4083/1/L

12 Jan. 45

Subject: Record of Cases.

To : Allied Commission, Bari Zone. (for Legal Officer)

Please note that it is not necessary to submit for review at this HQ the record of cases resulting in a total acquittal.

MA

W.E. BEGNESS
Colonel
Deputy Chief Legal Adviser

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1192

AG/4083/1/1

12 January 1945.

SUBJECT : Case of POVIA Luigi,
CAUTELA Francesco,
DEFINO Luigi.

TO : Allied Commission, BARI Zone, (for Legal Officer).

1. Returned herewith is the record of the case of the above named accused.

2. The conviction against all these accused have been quashed on review.

3. As regards POVIA Luigi, it is not considered that there was sufficient evidence to justify a conviction under Art. 624. There is no direct evidence of the sale of the sugar to the woman Sigretta Lucrezia, nor is there any other evidence whatsoever of theft. The record is so scanty that it does not show whether the other two accused assisted POVIA in carrying the sugar away from his place of work.

4. As regards CAUTELA Francesco and DEFINO Luigi, although these two accused both pleaded guilty to the charge under Art. 648, in fact it does not appear that they committed the offence of ricettazione. It is considered that the judge should have altered the charge, e.g. to one under Art. 379 C.P. (favoreggiamento rule), and invited the accused to re-consider their pleas.

By command of Rear Admiral STONE:

10

W. E. BARRERS,
Colonel,
Deputy Chief Legal Advisor.

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file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1196

/rt.

AG/4633/1/L.

13 Jan. 1945.

SUBJECT : Case of CAMPI Ettore.

TO : Regional Commissioner (for Regional
Legal Officer), Lazio-Umbria Region.

Reference L/1302-I of 14 Dec. 44.

On consideration of the charges against CAMPI Ettore and of the medical evidence as to his state of mind, it is directed that the charges against him be withdrawn and that he be released from custody forthwith. If sufficiently well he will be permitted to return home: if his state of mind is such that he should not be permitted to remain at large, he will be treated the same as any other Italian of unsound mind.

By command of Rear Admiral STONE:

lc

W.E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

na

4083/1
✓

1190

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

11 January 1945

SUBJECT: MUSSOLINO Salvatore (General Court
case)

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

1. Attached hereto is application for
review and form 8 in the case of the above
subject. In this case the accused received 25
years imprisonment.

For the Regional Commissioner:

ETK/pv

L. F. Dawson
L.F. DAWSON, *By E. T. Kerr*
Lt.Col., G.I., *major*
Reg.Chief Legal Officer.

ALLIED COMMISSION
LEGAL OFFICE
BARI

1189

Ref : PZ/LEG/2/6163/C

9 Jan 45

Subject: Application for review of sentence.

To : C.L.O. Legal Sub Commission, HQs Allied Commission.

1. Forwarded herewith is record in case of

BELLONO, Giuseppe
FRIZIER, Max
LORUSSO, Onofrio
DE ANGELIS, Luigi
COCOZZA, Gaetano
MINUTZZI, Giuseppe

tried by an A.M. Superior Court at Bari on 15 December 1944.

2. Also forwarded are applications for review of sentence submitted by the last two named accused.
3. It is the fact that a local B.S.D. has recently sold a quantity of damaged chocolate to civilians. Having regard to Trial Judges comments as to condition and packing of chocolate, it is submitted that it is fantastic to suggest that appellants, who are both substantial and experienced merchants of the City of Bari, were the victims of deception by the other accused.
4. As the whole transaction was a black market deal on a large quantity of unlawfully acquired W.D. property it is submitted that the sentences if anything err on the side of leniency.

J.A. Boyd-Carpenter

J.A. BOYD-CARPENTER
Major I.C.
Apulia & Calabria.

53

4083

1188

ALLIED COMMISSION
LEGAL OFFICE
BARI

Ref : BZ/LEG/2/6163/0 9 Jan 45
Subject: Application for review of sentence.
To : C.L.O. Legal Sub Commission, HQs Allied
Commission.

1. Forwarded is herewith application for review of sentence by Holzstein, Guglielmo, together with record in his case.
2. The quantity of Allied property in question was substantial, and there has been considerable trafficking in W.D. property by this coterie of refugees in Bari.
- // 3. It is consequently recommended that sentence stand.

J.A. Boyd-Carter
J.A. BOYD-CARTER
Major I.O.
Apulia & Calabria.

ALLIED COMMISSION
LEGAL OFFICE
D.R.I.

June 9th

1946

REF : BZ/LG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.I.O., Legal Sub-Commission, HQS
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BARI/5/15 CONENNA, Angelo

BARI/5/16. MASTROPASQUA, Carmelo

BARI/5um/32 GENTILE, Francesco

BARI/5um/33 FERRARO, Carmelo

PANZIERI, Felice

MISURELLI, Saverio

MODUGNO, Francesco

CAPO TO, Carmelo

BITONTO/5um/9

BITONTO/5um/10

BITONTO/5um/11

1187

1. Forwarded herewith for review on expiry of 30 days from date
of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BARI/5/15 CONENNA, Angelo

BARI/5/16. MASTROPASQUA, Ciriaco

BARI/5um/32 GENTILE, Francesco

BARI/5um/33 FERRARO, Ciriaco

PANZERI, Felice

BITONTO/5um/9 MISURELLI, Sergio

BITONTO/5um/10 MODUGNO, Francesco

BITONTO/5um/11 CAPUTO, Ciriaco

51

J.A. Boyd - J. A. Boyd

J.A. BOYD - CARPENTER

Major, L.C.,

Apulia & Calabria

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4083/1/1.

12 Jan. 1945.

SUBJECT : A. . Court cases.

TO : Allied Commission, Bari Zone (for Legal Officer).

1. With regard to the general question raised in para 3 of your letter 33/LEO/2/6163/0 of 2 Jan. 45 the position under Italian Law is as follows:

- a) Where the law permits (or orders) the court may (or must) impose a term of imprisonment and a fine.
- b) No term in default of payment of the fine may be imposed.
- c) If the accused does not pay the fine, the state collects the amount thereof by exercising its lien on the goods of the accused (see PC arts. 189 and 190).
- d) If such goods are not sufficient to meet the amount unpaid, the accused must work off the unpaid balance at the rate of 1 day ^{in prison} for every 50 lire unpaid (with certain limits as to the time he may serve in prison).
- e) The accused may at any time pay off the fine, receiving a credit of 50 lire for each day so served in prison.

2. In the case of PALMISANO Francesco, which gave rise to your query, the accused was convicted under PC art. 712: this article only permits the imposition either of a term of arrest up to 6 months or of a fine. The Court was therefore wrong in imposing a sentence of 6 months arrest and a fine of 5,000 lire and the sentence has consequently been amended on review.

3. Will you please draw the attention of all officers concerned to the contents of para 1 above and also, possibly, ⁵ to para 2, as so many cases will be brought under that article.

By command of Rear Admiral STONE:

779

R
V.E. BERNERS,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1185

AC/4083/1/L.

/r.
12 Jan. 1945.

SUBJECT : Suspending sentences under
Italian law.

TO : Allied Commission, Bari Zone
(for Legal Officer).

1. On several occasions, you have recommended suspending part of a sentence imposed by a Court: see for example 52/IES/2/6163/O of 6 Jan. 45 which forwarded the record of the case of SIMONE Luigi.

2. By Italian law (see P.C. art. 173 et seq.) the court and of course, a court of review may suspend a sentence in its entirety within the limits set out in the code: but no power exists to suspend part only of a sentence, as has been the practice in Allied Military Courts.

3. Will you please bring the point to the attention of other legal officers in the Bari Zone.

By command of Rear Admiral STONE:

10
R. E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

na

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1184

AG/4083/1/L

12 January 1945.

SUBJECT : Case of TOTA Gennaro.

TO : Allied Commission (Legal Office) BARI Zone.

1. Returned herewith in the record of the case of TOTA Gennaro.
2. On review the sentence has been reduced to 12 months reclusionione in respect of both charges.
3. Since the penalty applicable under Art. 648 C.P. is of the same kind as that under Art. 624 C.P., viz. reclusionione, the court was wrong in imposing two separate sentences, one in respect of each conviction. One term of reclusionione should have been imposed "for a period equal to the aggregate duration of the penalties which should be inflicted for the individual offences" (Art. 73 C.P.).
4. Please bring to the attention of the trial judge Consolidated Instructions Art. 14 - 4 (b) which repeats a previous directive issued on this subject.

By command of Rear Admiral STONE:

W. E. BEIRNS,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1183

AG/408J/1/1

12 January 1945.

SUBJECT : Case of SIMONE Luigi.

TO : Allied Commission, BARI Zone (for Legal Officer).

1. Returned herewith is the record of the case of SIMONE Luigi.
2. The sentence has been reduced on review to:
 - (a) 2 months arresto in respect to the conviction under Art. 712, and
 - (b) 6 months reclusione (suspended) in respect to the conviction under Art. 614.
3. Since the penalty applicable under Art. 712 is arresto and that under Art. 614 is reclusione, the court was wrong in imposing one sentence of reclusione to cover both these convictions. This has been rectified as above on review.
4. Please bring to the attention of the trial judge Consolidated Instructions Art. 14 - 4 (d) which repeats a previous directive (Ref. 401/L of 4 Oct 44) on this subject.

By command of Rear Admiral STONE:

lc

W. E. BRINKER,
Colonel,
Deputy Chief Legal Advisor.

XJ

mu

Allied Commission
Legal Office
Bari

1182

BZ/LEG/2/6163/0

8 Dec. 44

Subject : Case of Murolo Cosimo

To : Procuratore del regno at Tribunale of Minorenni

1. Above boy, who is 16 yrs of age, was sentenced to 2 years imp. by AM superior Court at Bitonto on 5.12.44
2. Court recommended that he serve sentence in a reformatory.
3. This HQs would be obliged if you would arrange for a vacancy in riformatorio giudiziario to be obtained for him.

sg. J.A.R. C.

J.ABC/im

J. A. BOYD- CARPENTER
Major L.O.,
Apulia & Calabria

75
(copy)

0878

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

785016

Form No. J4

Serial No.

ALLIED MILITARY GOVERNMENT

To : A. M. G. H. Q.

From : S. C. A. O. Province of

Name of Accused

Decision on Review has been received by me.

Signed

Date

4082/1
✓

1181

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

10 January 1945

SUBJECT: FUSCO Giuseppe di Antonio.

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

1. Attached hereto is the Form 8 and application for review in the case of the above subject. In this case the sentence exceeded 2 years imprisonment.

For the Regional Commissioner:

ETK/pv

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

By E.T. Kemp
Capt.

✓
4083/1

1180

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

9 January 1945

SUBJECT: Transmission of Enclosed Documents
relating to review of sentence.

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

1. Attached hereto is application and
form 8 in the case of STEFANELLI Paolo. In
this case the accused received a sentence of
3 years imprisonment.

For the Regional Commissioner:

ETK/pv

L.F. Lawson
L.F. LAWSON,
Lt.Col., G.L.,
Reg.Chief Legal Officer.
By E. J. [signature]

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1179

AG/4083/1/L

WAB/mt.
11 January 1945.

SUBJECT : Case of SERENA-ROGNINI Raimondo.

To : Regional Commissioner (Attn: Regional Legal Officer);
EMILIA Region.1. Receipt is acknowledged of your RIX/LE/668/266 of
5 Jan. 45.2. So far no complaint has been received of this sentence.
It is agreed that sentences in cases of this type should be
sufficient to deter other potential offenders, but each case
has to be judged on its particular facts.3. I feel that in this case I shall have no difficulty
in justifying Capt MORE's sentence to higher authority, if
need arises.

By command of Rear Admiral STONE:

NR. *75*

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor,

10 file
HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4083/1/L.

10 Jan. 1945.

SUBJECT : Case of ARDUINI Giuseppe.

TO : Regional Commissioner (for Regional
Legal Officer), Abruzzi-Marche Region.

Reference AMH/511/14/FO of 6 Jan. 45.

It is agreed on the grounds you state that the conviction of ARDUINI Giuseppe should be quashed: will you please so enter on the Form 8, the case being one normally reviewable at Regional Hq. He will be released as soon as possible.

By command of Rear Admiral STONE :

(c)
W.F. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

TO : H.Q. A.C. (for attention of Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Case of ARDUINI Giuseppe (PU/S/P/11/9)

REF. : AMR/511/14/PU

DATE : 6 Jan. '45

1177

1. I enclose Record and Application for Review in above case. With this ^{case} the following were connected :-

BRIGANTI Domenico	(PU/S/P/12/10)
VAGNINI Lando	(PU/S/P/15/12)
CAMBRINI Gino	(PU/S/P/16/13)

963 Vol. 9

Reference is made to your ACC/4083/I/L dated 16 Oct. '44 in which you instructed that a verdict of Not Guilty be entered in the cases of Briganti and Vagnini and that the conviction be quashed in the case of Cambrini.

2. I also enclose:-

- (i) letter from P.L.O. Pesaro PU/L/O4/E/1111 dated 11 Nov. 44 re Arduini with report by PSO Pesaro;
- (ii) letter from P.L.O. Pesaro PU/L/O1/E/1111 dated 11 Nov. 44 re the whole 4 cases above mentioned together with correspondence with AMG 8th Army and other documents specified therein;
- (iii) Copy of this office letter to P.L.O. Pesaro dated 18 Nov. 44 together with latter's reply dated 19 Nov/Dec. 44, documents referred to therein and Sgt. Sonnino's Report;

3. From all the facts now available it would appear that Arduini's conviction should be quashed. I do not think further investigation of the circumstances is necessary. In view of the fact that ^{the} earlier cases have already been before you and of 8th Army's request that they be informed as to the disposition of the matter I do not think that the final decision in the Arduini's case should be taken at this level.

For the Regional Commissioner

R. G. S. ALEXANDER, Major
R.L.O.

file

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1176

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4083/1/L.

10 Jan. 1945.

SUBJECT : Case of CARACCIOLI Arnaldo and
SETTER Luigi.

TO : Regional Commissioner (for Regional
Legal Officer), Toscana Region.

Reference HVIII/19/3008 of 6 Jan. 45.

1. This Hq. does not desire that the case be sent here. The question was asked because it had been heard that the case had ^{already} been sent here and also because the attached promemoria was received and was being held here pending receipt of the case.

2. Will you please take action in the normal way on this case and keep the promemoria with the other papers.

By command of Rear Admiral STONE:

le.

W.F. MEHRENS,
Colonel,
Deputy Chief Legal Advisor.

XS

511

✓
4683/1

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

1175

File Ref:

RVIII/19/3008.

Date: 6 January 1945.

SUBJECT: Case of CARACCILOLO, Arnaldo and SMETTER, Luigi.

TO : Chief Legal Officer, Headquarters, AC.

1140

1. See your letter AC/4083/I/L 2 January 1945 relating to the above case.

2. In a telephone communication with LIVORNO, I was advised that the above case has not been forwarded to this office, but would be sent on 7 January 1945. The Public Safety Division has had correspondence with AC concerning the case which involves a question of an authorized pass.

3. Is it desired that the case be forwarded to your office for review? Review by this office will be held in suspense, awaiting your reply.

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

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1174

AC/4035/1/L.

/rm.

10 Jan. 1945.

SUBJECT : Superior Court Case involving
Italian Soldiers.

TO : Regional Commissioner (for Regional
Legal Officer), Abruzzi-Marche Region.

1. Reference AMR/511/14/AMC of 8 Jan. 45.
2. The 9 accused (including the Italian Soldiers)
will be tried by an Allied Military Court.

By command of Rear Admiral STONE:

*W.E. SHEPHERD**38*

W.E. SHEPHERD,
Colonel,
Deputy Chief Legal Advisor.

X5

CONFIDENTIAL

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WHL/nee.

5 January 1945.

REF : RIX/LE/668/266.

SUBJECT: Case of SERENA-MONCHINI Raimondo, Superior Court,
Forli Province, (Wire Cutting).TO : Deputy Chief Legal Advisor, Legal Sub-Commission,
Headquarters, Allied Commission, APO 394.

1. This Headquarters is in receipt of record of trial in the above case. It appears therefrom that the accused was charged with cutting a telephone wire on 9 November 1944 at Bertinoro, Forli Province, in violation of paragraph 12, Proclamation No. 1. The accused was observed attempting to cut the wire on the edge of a shell casing. Whether he actually succeeded in severing the wire is in dispute, but unquestionably he damaged it and interrupted signal communication. The accused admitted at the trial that he attempted to sever the wire. In explanation, he stated that he thought that the wire had been abandoned and he wanted to obtain a piece to serve as a shoelace for a little girl.

2. The trial court found the accused guilty and sentenced him to 3 months imprisonment (suspended) and to a fine of 20,000 Lire, or in default of payment 20 days imprisonment. The accused paid the fine.

3. The record discloses that the accused is 60 years of age, and was formerly a Colonel in the Italian army. The court included the following remarks in the record:

"only reason for suspending sentence was age and good character of accused. He appeared to me to be senile".

In this latter connection, the Deputy Regional Legal Officer of this Region attended the trial and states that the accused appeared to be decrepit and looked much older than his actual age.

4. It should also be noted that the F.S.S. arrest report states:

"This is NOT considered to be a case of sabotage". No doubt what is intended by the foregoing is to point out that the accused did not cut the wire with the intention of injuring the Allied Forces. Nevertheless, under existing directives such acts must be severely punished.

5. I have verbally discussed the case with the trial judge (Captain More, PLO of Ravenna Province), and he is and was fully

CONFIDENTIAL

CONFIDENTIAL

aware of the policy of higher headquarters that offenses of this nature must be severely dealt with. I pointed out to him that:

a. A 3 months sentence of imprisonment was entirely inadequate; that he should have imposed an appropriate term of imprisonment having regard to the gravity of the offense, and then considered the question of suspending all or part thereof.

b. That a fine was an inappropriate punishment for this type of offense.

c. That the alternative jail sentence for nonpayment of the fine was ridiculously low.

d. That the question of suspension was one peculiarly for the determination of the trial judge; but that because of the gravity of the offense, it might have been advisable in this case to have had the benefit of a medical report, before ordering the sentence suspended; that in a serious case of this nature, "good character" is not a valid ground for suspension.

6. The foregoing is called to your attention at this time in view of the probability that this case will become the subject of correspondence between your Headquarters and higher Headquarters (See your AC/4002/45/L, 4 December 1944, dealing with 2 previous wire cutting cases, and our reply of 7 December 1944). — (13A)

7. Please advise if you desire further action taken by this Headquarters in connection with this case.

(7A)

For the Regional Commissioner:

William H. Levit

WILLIAM H. LEVIT
Major, J.A.G.D.
Regional Legal Officer.

36

CONFIDENTIAL

TO : H.Q. ALLIET COMMISSION
(for attention of Legal Sub-Commission) ✓ 4083/1 (1172)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Petitions for Review - TROVELLESI SPARTACO - AP/Sup/94/68
MAZZA GIUSEPPE - AP/Sup/95/69
CAVA Enzo - AP/Sup/96/70

REF. : AMR/511/14/AP

DATE : 8 Jan. '45

1. Records and Petitions for Review in above cases which were tried together are forwarded herewith.
2. It is considered that the Court should have struck out the Curfew charge in each case. Either that or have imposed an additional short term of imprisonment to cover this offence. No doubt you will take such rectifying action as may seem to you necessary.

For the Regional Commissioner

R. G. S. ALEXANDER, Major
R.L.O.

R. G. S. Alexander

5590

✓ 408311
ALLIED COMMISSION
LEGAL OFFICE
BARI

1171

Ref: BZ/LEG/2/6163/0

6 Jan 45

Subject: Case of DE CICCIO Crofrio.

To : C.I.O. Lega/ Sub Commission, HQs Allied Commission.

1. Forwarded herewith is application for review of sentence in above case, together with record.
2. Although the quantity of W.D. property concerned is NOT large, there has been, as your HQs is aware, so widespread a trafficking in military property in this area that deterrent sentences are considered necessary.
3. At request of Advocate documents as to character and family situation are also attached.

J.A. Boyd-Carpenter

J.A. BOYD-CARPENTER
Major L.O.
Apulia & Calabria.

JABC/Ee

✓ 4083/1

(1170)

ALLIED COMMISSION
LEGAL OFFICE
BARI

June 6, 1941

REF : BZ/LEG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.L.O., Legal Sub-Commission, HQs
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BARI/5/14 POLYA, Luigi and 2 others.
BARI/5/18 PALASCIANO, Antonio.
BARI/5/19 GALLO, Vincenzo.
BARI/5/20 SANTORO, Nicola.
BITONTO/5/4 TRAETTA, Vito
BITONTO/5/5 CEA, Luigi
BITONTO/5/6 DI RONZO, Rocco
BITONTO/5/7 LISI, Vito
BITONTO/5/8 GIMASTA, Oronzo

X3

J.A. Boyd-Carpenter

J.A. BOYD-CARPENTER
Major, L.O.,
Apulia & Calabria

✓
4083/1
ALLIED COMMISSION
LEGAL OFFICE
BARI

1169

REF : BZ/LEG/2/6163/0

6 Jan 45

SUBJECT : Case of MARANO, Italo.

TO : C.L.O., Legal Sub-Commission
Hqs Allied Commission

1. Record in above case is forwarded at once for the following reasons.
2. Having regard to the very frank statement by Trial Judge and to the age and circumstances of accused it is recommended that balance of sentence be suspended w.e.f. date of receipt of decision of your Hqs at BARI.

J.A. Boyd-Carpenter

J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria

JABC/mk

*affirmed - 1 mo suspended**see card index
T/4 Lullala*

32

ALLIED COMMISSION
LEGAL OFFICE
BARI

4083/11

(1148)

REF : BZ/LEG/2/6163/0

6 Jan 45

SUBJECT : Case of SIMONE, Luigi.

TO : C.L.O., Legal Sub-Commission
HQs Allied Commission.

1. Forwarded herewith is application for review of sentence in case of SIMONE, Luigi, together with record in his case.
2. Having regard to age of accused it is submitted that part of the sentence might properly be suspended. *W*

*J.A. Boyd-Carpenter*J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria

JABC/mk

*NOT permissible
under Italian law**XJ*

✓ 4083/1

TO : H.Q. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Superior Court Case involving Italian Soldiers

REF. : AMR/511/14/ANC

DATE : 8 Jan. '45

1166

1. Copy letter dated 1 Jan. '45 today received from P.L.O. Ancona is attached.
2. This would appear to be a case justifying trial of Italian Soldiers by an AMG Court. It is submitted for your decision in terms of Consolidated Instructions Art. 4 (1) (o).

For the Regional Commissioner

YJ

RECEIVED
JAN 12 1945
AMG/AC

R. G. S. Alexander

R. G. S. ALEXANDER, Major
R.L.O.

30

Copy to : P.L.O. Ancona (through P.C.). Your ANC/11/12/1 dated 1 Jan. '45 refers.

55824

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
ANCONA PROVINCE

SUBJECT : Superior Court Case
TO : R.L.O. Abruzzi Marche Region
FROM : P.L.O. Ancona
REF : ANC/11/12/1
DATE : 1 January 45

LEGAL OFFICE
Ancona

1. The 68 Section of the S.I.B. has presented to Public Safety an investigation file covering the arrest of the following named persons, the first 7 of whom are members of the Italian Army:

RIPA Antonio, 221 Coy, I.P.C.
GALANTE Giuseppe, 224 Coy. 410 Reg
FERRI Pietro, 410 Coy. I.P.C.
CARPENTIERI Renzo, 96 Battalion I.P.C.
MATERA Leonardo, " " "
RENO Antonio, " " "
MAGGI Salvatore, " " "
PIAGGESI Ezio, Senigallia
PASQUINI Nazzareno, Senigallia

All nine are charged with conspiring together, to steal many bales of Allied clothing from the 500 A.O.D. at which the 7 Italian soldiers were on duty as sentries. The thefts occurred over a period of time with the Italian soldiers removing the clothing from the Depot, and into the custody of the 2 civilians for which the soldiers received agreed compensation from the civilians. The charges are serious and justify trial before a superior Military Court.

2. The question arises as to whether all nine should be brought to trial before an AMG Court or whether the Italian soldiers should be tried by Italian Military Tribunale. I personally favor trial by AMG Court, because in order to prove the charges against the civilians, the testimony of the soldiers will be necessary; furthermore there was quite a large sum of money found in the possession of the soldiers, and seized by SIB and if the soldiers are convicted, that money should be confiscated by Allied Military Government.

-2-

3. The investigation of this case has taken a long time and was not completed until a few days ago. Some of the defendants have been in custody for about 2 months pending completion, of what has been described as a most difficult investigation. It is therefore requested that this HQ be notified as soon as possible as to the court to which these cases should be submitted.

For the Provincial Commissioner:

W.T. BOONE
Capt. CMP
P.L.O. Ancona.

4083/1

1165

TO : H.Q. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Case of ANTINORI Federico - SCARPA Nazzareno

REF. : AMR/511/14/ANG

DATE : 8 Jan. '45

1150

1. Ref your AQ/4083/1/L dated 5 Jan. '45, the Record in above case was sent to you not because it was thought that as a case under Italian law it ought, for that reason only, to be re-reviewed by you but because, in the light of a decision made by you on review in a subsequent case (Your AQ/4083/1/L dated 6 Dec. '44 re CECCARELLI refers) it appeared that a mistake in law had been made on original review of this case and that, in fairness, it should be re-reviewed. It was considered that such re-review fell within the scope of your recent directive.

2. Enquiries had elicited that the confiscation of the truck was ordered by way of extra punishment in respect of the rationing offence. Confiscation of vehicles is not usually ordered in this area in simple circulation - without - permit cases and would not in this case have been ordered apart from the rationing offence. It was accordingly considered at this H.Q. that if the reviewing authority decided to quash the convictions under Italian law it would at least be for consideration whether the order for confiscation should not also be rescinded. It is of course not disputed that the Court in its discretion might have confiscated on either charge. It is agreed that above considerations should have been made plainer in submitting the matter to you.

3. The upshot of the matter is that after discussion with the P.L.O. concerned who happened to visit this H.Q. yesterday it has been decided to let the confiscation order stand. There is little doubt that a rationing offence was committed in spite of the fact that the charge may have been technically bad. In these circumstances broad justice is probably being done by leaving matters as they were.

For the Regional Commissioner

R. G. S. Alexander

R. G. S. ALEXANDER, Major
R.L.O.

10

5783

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

1164

Originator's Reference: 19

Date/Time of Origin: JAN 03/1500

Message Centre No: C/7091

Date/Time Rec'd: JAN 09/0950

Precedence: IMPORTANT

4083/11 ✓

FROM: HQ TOSCANA REGION AMG

TO: HQ ALCOM

ACTION

IN CLEAR.

Your 9138 dated 2 January 45. In case of SANTONI ADOLFO
accused was released 3 January 45.

DIST

Action: Legal S/O (2)
Info: A/President
Chief Commissioner
CA Sec
File (2)
Float

NA

R

9 Jan 45

20



HEADQUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

1103

AC/408, 1/L.

IGHC/ap.
9 January 1945.

SUBJECT : CARANNANTE Antonio, CC.RR.

TO : Regional Commissioner, Southern Region
(for Regional Legal Officer).

1. I return the papers in the above case forwarded with your letter L-3046 of 6 Jan 45.

2. This HQ entirely concurs with your views.

3. No Allied Military Court will be convened to try CARANNANTE.

4. The decision whether or not to prosecute CARANNANTE in an Italian Court rests, of course, with the Italian authorities; they should be informed of the view taken by this Commission and that, so far as the Allies are concerned, they need feel under no obligation to proceed against CARANNANTE. They should also be informed that, if they do proceed, the availability of the military witnesses cannot be guaranteed.

By command of Rear Admiral STONE:

10

W. E. BRIDGINS, Colonel,
Deputy Chief Legal Advisor.

Incls.

7) a

4083/1

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

1162

L-3046

6 January 1945

SUBJECT: Alleged unlawful wounding of a British W.O. II-
Avellino Province - Accd. Pte Carannante Antonio-CC.RR.

TO : Chief Legal Advisor, Legal Sub-Commission,
Allied Commission, HQ, C.M.F.

1. I forward herewith the complete papers in the above mentioned case.

2. It would appear from all the evidence available that C.S.M. Edwards E.G. was in an aggressively drunken condition on the afternoon in question; that he assaulted without provocation a Brigadiere of Carabinieri who was at the time in the clear execution of his duty; that when the accused saw his superior being manhandled and apparently receiving little or no assistance from other soldiers standing about he quite rightly went to help him; that he (the accused) in his turn then became the victim of a determined assault by C.S.M. Edwards; that the accused tried to protect himself by putting out his automatic and pointing it at the aggressor; that this had ~~no~~ ^{and} effect, that the accused then fired a warning shot into the ground; that even this did not stop the soldier and that at that stage, and only at that stage, the accused fired at Edwards somehow hitting him low down in the back.

3. I am of opinion that there is no case for the accused to answer. I cannot see that the accused who I suppose has, like most other Italians, never been trained in the use of his fists was required in law either to take the blows Edwards was giving him without apposition or, as a policeman under a special duty to stand his ground, to take ignominiously to his heels in the presence of a crowd of onlookers.

4. I only submit these papers to you as I am not clear that I have any authority to enter a "Nolle Prosequi" on a

charge the conviction and sentence in which would
prima facie be beyond my reviewable powers.

5. I shall be glad to have your instructions.

L. F. Dawson

L.F. DAWSON,
Lieut. Colonel, G.L.,
Reg. Legal Officer,
Southern Region, A.C.

LFD/mo

ENCL-

1. complete file.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CLERKS	
8 JAN 1945	

23

ALLIED COMMISSION
LEGAL OFFICE
EARI

1161

4 Jan 45

Ref: BZ/LEG/2/5153/0

Subject:- Case of CAPUS, Sergio

To :- C.L.O., Legal Sub-Commission, HQs Allied Commission

1. Forwarded herewith is record in case of CAPUS, Sergio, which is forwarded immediately in following circumstances.
2. Accused, who was NOT represented by an advocate, pleaded guilty to a charge under Art. 712, apparently on the basis that the mere possession of the pair of trousers was sufficient to amount to the offence.
3. Having regard, however, to the fact that the Court came to the conclusion that there was nothing to indicate that trousers were made of military blankets, it would NOT appear that any element of the offence under Article 712 existed.
4. After discussing the matter with trial Judge, this HQs is NOT satisfied that accused understood either the effect of plea of guilty or the meaning of Art. 712.
5. Case is therefore submitted to you with recommendation that sentence be quashed. Pending your decision, in view of the slowness of communications, accused has been released.

*A. Boyd-Carpenter*J.A. BOYD-CARPENTER
Major L.O.,
Apulia & Calabria

25

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF :- BZ/LEG/2/6163/0

5 Jan 45

SUBJECT :- Case of SANTORO, Angelo and 32 others.

TO :- C.I.C., Legal Sub-Commission, HQs Allied Commission.

1. Forwarded herewith is record in case of

✓ SANTORO Angelo	✓ BRANDONISIO, Arcangelo
✓ DE MITTO Giuseppe	✓ BALICE, Bonaventura
✓ MAGLIETTI, Giuseppe	✓ DE GIULIO, Vito
✓ DE ADDESSIS, Antonio	✓ VERNICO, Michele
✓ SPADAVECOHI, Nicola	✓ MARI, Vincenzo
✓ DEL MASTRO, Michele	✓ GENTILE, Giorgio
✓ DE MITTO, Tommaso	✓ DI FRONZO, Pasquale
✓ ROPPO, Raffaele	✓ QUESTELLI, Giuseppe
✓ DE MARZO, Pasquale	✓ CONSALVO, Giovanni
✓ CALABRESE, Giacomo	✓ PROCCACCIA, Michele
✓ MASCIAPINTO, Francesco	✓ VENTRELLI Giuseppe
✓ MASELLI, Giuseppe	✓ LOMBARDI, Giuseppe
✓ CONSTANZO, Vito	✓ DE FILIPPIS, Michele
✓ CALABRESE, Angela	✓ ORESTE, Francesco
✓ FALCO, Angela	✓ ROGANDI, Giuseppe
✓ LOCONTE, Rocco	✓ PARISI, Pasquale
✓ PARISI, Francesco	

tried by a Superior A.M.Court at BARI on 14 and 15 December 1944.

2. Also forwarded are applications for review of sentence submitted by accused DEL MASTRO, Michele and MASELLI, Giuseppe.
3. It is submitted that the sentences in cases of above 2 men which were imposed for participation in a large black market deal in stolen W.D.sugar are proper and should stand.
4. It will be noted that among the accused is one DE FILIPPIS, Michele. It has now been ascertained that though Trial Judge was of course unaware of the fact at the time DE FILIPPIS was NOT present at any time during the trial. He was represented by an advocate who purported to enter a plea of guilty on his behalf.

✓ ROPPO, Raffaele
 ✓ DE MARZO, Pasquale
 ✓ CALABRESE, Giacomo
 ✓ MASCIAPINTO, Francesco
 ✓ MASELLI, Giuseppe
 ✓ CONSTANZO, Vito
 ✓ CALABRESE, Angela
 ✓ FALCO, Angela
 ✓ LOCCONTE, Rocco
 PARISI, Francesco
 ✓ QUESTELLI, Giuseppe
 ✓ CONSALVO, Giovanni
 ✓ PROCACCIA, Michele
 ✓ VENTRELLI, Giuseppe
 ✓ LOMBARDI, Giuseppe
 ✓ DE FILIPPIS, Michele
 ✓ ORESTE, Francesco
 ✓ ROGANDI, Giuseppe
 PARISI, Pasquale

tried by a Superior A.M. Court at PARI on 14 and 15 December 1944.

2. Also forwarded are applications for review of sentence submitted by accused DEL MASTRO, Michele and MASELLI, Giuseppe.
3. It is submitted that the sentences in cases of above 2 men which were imposed for participation in a large black market deal in stolen W.D. sugar are proper and should stand.
4. It will be noted that among the accused is one DE FILIPPIS, Michele. It has now been ascertained that though Trial Judge was of course unaware of the fact at the time DE FILIPPIS was NOT present at any time during the trial. He was represented by an advocate who purported to enter a plea of guilty on his behalf.
5. DE FILIPPIS is NOT in custody, and attempts are now being made to apprehend him. It will be noted that fine imposed has in fact been paid. Trial Judge at time he accepted payment was unaware of situation, which was only disclosed as result of check of gaol lists by I.O.
6. Subject to your directions it is assumed that trial in absentia was a nullity, and that in the event of DE FILIPPIS being apprehended he should be tried de novo.
7. PROCACCIA, Michele was present on the first day of the trial when his plea was taken. He was however absent on the second day and was sentenced in absentia. It is assumed that in the

event of his apprehension all that will be necessary will be to bring him before the same Court for sentence.

He also is NOT at present in custody.

8. Investigations have revealed that both these men were prior to the trial at liberty, and that medical certificates indicating their inability to be present were submitted on their behalf to the police agency concerned. This fact was NOT conveyed by them to either the Prosecutor or the Court. Defence was carried on by their respective advocates who made no mention of their clients absence, no doubt because such trial in absentia is permissible in the Italian Courts. After trial police went to homes of 2 accused in question but discovered that they were missing. This fact was NOT reported to this HQs or to the Court.
9. Instructions have been given by Zone Police Officer for every effort to be made to arrest these 2 men, and the advocates concerned are being interviewed with a view to discovering the source of funds for payment of the fines.

J.A. Boyd-Carpenter

J.A. BOYD-CARPENTER
Major, LC,
Apulia & Calabria.

Copy to :- Zone Police Officer.
Capt. F.J.Aulisi.

T.A. Boyd-Carpenter
 J.A. BOYD-CARPENTER
 Major, IO,
 Apulia & Calabria.

Copy to :- Zone Police Officer,
 Capt. F.J.Aulisi.

20

P.S.

Also forwarded being

JABC/mk

P.S.

Also forwarded having just been received is application
 for review of sentence by GENTILE, Giorgio.

As accused, who was represented by an advocate of great
 experience pleaded guilty to aggravated theft, it is sub-
 mitted that sentence was lenient and should stand.

T.A. Boyd-Carpenter
 Major

ALLIED COMMISSION
LEGAL OFFICE
PARI

1159

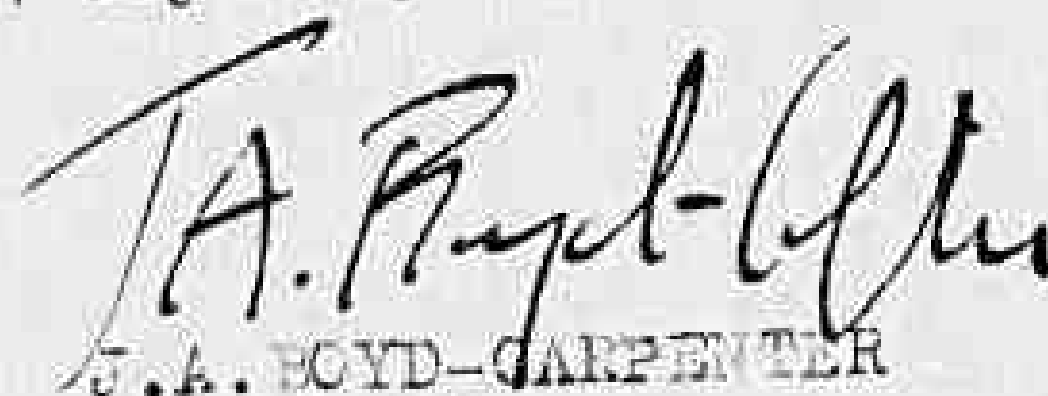
REF : BZ/LEG/2/6163/C

5 Jan 45

SUBJECT : Case of MILELLA, Paolo.

TO : C.L.O., Legal Sub-Commission, HQs
Allied Commission

1. Case of above mentioned man is submitted without awaiting expiry of 30 days for the following reasons.
2. As charge was reduced to one under Art. 712, and property in question was 60 cigarettes, it is considered that the sentence of three months imprisonment is excessive and out of line with other sentences imposed in this area.
3. It is therefore recommended that sentence be reduced to one of 14 days imprisonment.



J.A. BOYD-CARPENTER
Major, LC,
Apulia & Calabria

Copy to Captain Christians.

JABC/mk

X5

ALLIED COMMISSION
LEGAL OFFICE
PARI

REF : 33/L33/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.I.O., Legal Sub-Commission, HQs
Allied Commission

1. Forwarded herewith ~~for~~ for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BITONTO/5/5 MURLO, Grimo.

BARI 5/5
FIORE, Francesco

BARI/5/12
LABIANCA, Niccolò

BAR/5/13, BARBA, Nick.

BRITON TO 5/4 DEL VECCHIO, Francesco

STRAMAC-LIA, Roco.

BARBARA STANLEY

1157

ALLIED COMMISSION
LEGAL OFFICE
BARI

4.1.65

REF : B2/LMG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.L.O., Legal Sub-Commission, HQS
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

- BARI/5/5A - PORCELLI, Nicola. BARI/5un/25 v ABONDANZA
- BARI/5/6A - TORITTO, Carmelo. BARI/5un/26 v PATARINO Celerino
- BARI/5/7A - DE GIULIO, Rocco. BARI/5un/27 v TARANTINO Carmine
- BARI/5/8 - COLELLA, Dante. BARI/5un/28 v RENNA, Grazia
- BARI/5/9 - CITARELLA, Gaetano. BARI/5un/29 v VILLANORA Carmine
- BARI/5/10 - DELETTORI, Vincenzo. BARI/5un/30 v MENOLASCA Lucio
- BARI/5un/16 - LAMACCHIA, Domenico. BARI/5un/31 v SORICO Rocco
- BARI/5un/17 - LECROSSO, Angelantonio. BARI/5un/32 v FERRI Carmine
- BARI/5un/22 - ALFANO, Francesco. BARI/5un/33 v AZEO
- BARI/5un/23 - BLASI, Marino. BARI/5un/34 v AZEO

L. Forwarded herewith for review on expiry of 30 days from date
of trial are record(s) in unmentioned case(s).

No application for review of sentence has been received.

BARI/5/5A - PORCELLI, Nicola. BARI/Sun/25 - ARONDUZZI
BARI/5/6A - TURITTO, Giuseppe. BARI/Sun/26 - PATARINO
BARI/5/7A - DE GIULIO, Rocco
BARI/5/8 - COLELLA, Dante. BARI/Sun/27 - TARANTINO
BARI/5/9 - CITARELLA, Gaetano. BARI/Sun/28 - RENNA,
BARI/5/10 - DELETTORI, Vincenzo. BARI/Sun/29 - VILLANOA
BARI/Sun/16 - LAMACCHIA, Domenico
BARI/Sun/17 - LECROSSO, Angelantonio
BARI/Sun/22 - ALTAFAMO, Francesco. BARI/Sun/31 - SORICO, Rocco.
BARI/Sun/23 - BLASI, Massimo. BARI/Sun/1 - FERRI, Giovanni
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/2 - AZEO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/3 - AFFATO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/4 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/5 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/6 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/7 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/8 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/9 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/10 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/11 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/12 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/13 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/14 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/15 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/16 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/17 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/18 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/19 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/20 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/21 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/22 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/23 - GAUDINO
BARI/Sun/24 - BITETTO, Francesco. BARI/Sun/24 - GAUDINO

X 5

J.A. BOYD-CARPENTER
Major, L.C.,
Apulia & Calabria

ALLIED COMMISSION
LEGAL OFFICE
BARI

1156

REF : BZ/LEG/2/6150

3 Jan 44

SUBJECT : Application for review of sentence.

TO : C.L.O., Legal Sub Commission, HQs Allied Commission.

1. Forwarded herewith are:

- (i) Application for review of sentence
by ROMANAZZI, Giuseppe;
- (ii) Record of trial of this accused and
of VURRO, Adolfo.

2. Although application is as written by accused's brother,
it is signed by accused, who is the person referred to
in the text.

3. It is submitted that the sentence is a proper one and
should stand. Offences in connection with W.D.petrol
are very prevalent in this area.

A. Boyd-Carpenter

JABC/mk

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

5 JAN 1945

J.A. BOYD-CARPENTER
Major, LC,
Apulia & Calabria

16

✓ 4023/10
 ALLIED COMMISSION
 LEGAL OFFICE
 BARI

1155

3 Jan 45

Ref: BZ/LEG/2/6163/0

Subject:- Case of D'ANTUONO, Annamaria

To :- C.I.O. Legal Sub-Commission, HQs. A.C.

1. Record in case of above woman is forwarded at once without awaiting either submission of Form 11 or the expiring of 30 days, in the circumstances which appear hereunder.
2. Case was tried by Captain H.G.T. Christians sitting as a Summary Court at BARI on 29.12.44.
3. After the hearing L.O. Apulia and Calabria, who happened to be in Court during the hearing discussed the case with trial Judge who, as appears from note on the record, on reconsideration regards sentence imposed by him as excessive, and asks for its reduction.
4. It was apparent on the evidence that while accused was guilty of possession of some of the articles charged, they must have been brought to her house by the American soldier Pte. STORHO, R. with whom she was living, either for their joint use or, according to her evidence, to be washed, or by other American soldiers.
5. This HQs shares the view expressed in open Court by the Judge that these soldiers were mainly to blame.
6. Consequently it is submitted that the penalty which, taking into account the amount of property involved, is prima facie a proper one, should be drastically reduced.
7. It is submitted that it would be proper either to leave the sentence on the record, but suspend it w.e.f. date of receipt of claims at BARI, or reduce the sentence to one of one month's imprisonment.
8. May decision be communicated in due course.

A. Byrd-Carpenter
 J.A. BYRD-CARPENTER
 Major I.O., Chief Counsel
 Apulia & Calabria

LEGAL SUB
 10
 Italian Section
 CL RKS
 5 JAN 1945

ALLIED COMMISSION
LEGAL OFFICE
BARI

2.1.45

REF : BZ/LG/2/6150

SUBJECT: Case record(s) forwarded for Review.

TO : C.L.O., Legal Sub-Commission, HQs
Allied Commission

1. Forwarded herewith for review on expiry of 30 days from date of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BITOUTO/5/1

TOTA, Gennaro.

BARI/Sun/11.

MCINNONA, Nicola

BARI/Sun/14.

GARDIANO, Sebastiano

BARI/Sun/15

FANELLI, Giovanni

BARI/Sun/17

SILLETTI, Francesco.

of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

BITONTO/5/1 TOTA, Gennaro.
BARI/Sun/11. PICCONOVA, Nicola
BARI/Sun/14. GAUDIANO, Sebastiano
BARI/Sun/15 FANELLI, Curzio
BARI/Sun/17 SILLETTI, Francesco.

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	

A. Boyd-Lt.
J.A. BOYD-CARPENTER
Major, L.O.,
Apulia & Calabria

✓ 1153
JOSEPH
ARMED COMMISSION
LEGAL OFFICE
BARI

2 Jan 45

REF : BZ/LEG/2/6163/0

SUBJECT : A.M.Court cases.

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

1. Attached records in cases of

BIANCO, Carlo BARI/S/96
PALMISANO, Francesco BARI/S/97

are forwarded without awaiting either submission of Form 11 or expiring of 30 days for the following reasons.

2. Case of BIANCO, Carlo.

Having regard to entry under "Remarks of Court" it is submitted that sentence should be reduced.

3. Case of PALMISANO, Francesco.

This case is submitted for a ruling on a point of law. Charge having been reduced to one under Art.712, term of "arresto" imposed is maximum permitted under that Article.

That section ~~also~~ also provides for imposition of a fine, which was also imposed in the case, but NOT paid.

Following Consolidated Instructions for A.M.G. Courts, Article 26 (2) (c), Trial Judge imposed a term of 100 days imprisonment in default of payment, and fine not having been paid, this term remains to be served. As a consequence accused will serve slightly more than 9 months imprisonment, which sentence it is submitted is, on the merits, a proper one. It is further submitted that sentence is valid, but as case raises a question which will frequently arise it would be much appreciated if a ruling could be given for the guidance of A.M.

Having regard to entry under "Remarks of Court" it is submitted that sentence should be reduced.

3. Case of PALMISANO, Francesco.

This case is submitted for a ruling on a point of law. Charge having been reduced to one under Art. 712, term of "arresto" imposed is maximum permitted under that Article.

That section ~~also~~ also provides for imposition of a fine, which was also imposed in the case, but NOT paid.

Following Consolidated Instructions for A.M.G. Courts, Article 26 (2) (c), Trial Judge imposed a term of 100 days imprisonment in default of payment, and fine not having been paid, this term remains to be served. As a consequence accused will serve slightly more than 9 months imprisonment, which sentence it is submitted is, on the merits, a proper one. It is further submitted that sentence is valid, but as case raises a question which will frequently arise it would be much appreciated if a ruling could be given for the guidance of A.M. Courts in BARI Zone.

A Boyd-Carpenter

J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria.

Copy to Capt. F.J. Aulisi.

JABC/mk

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Italian Section	
CL RKS	
5 JAN 1945	

ALLIED COMMISSION
LEGAL OFFICE
BARI

1152

REF : BZ/LEG/2/6163/0

2 Jan 45

SUBJECT : Case of Aquarini, Pasquale.
TO : C.L.O., Legal Sub-Commission,
HQs Allied Commission.

1. Record in above case which was tried by Major W. Lupton sitting as a Summary Court at BITONTO on 21st December is forwarded at once, as it is submitted that evidence produced did NOT justify a conviction.
2. It is therefore recommended that conviction be quashed.

H. Boyd Carpenter

LEGAL SUB-COMMISSION	J.A. BOYD-CARPENTER
JABOZMB	Major, LO,
DCLO	Apulia & Calabria
Chief Counsel	
CJO	
Italian Section	
CL RKS	
5 JAN 1945	

✓
4083/1

ALLIED COMMISSION
LEGAL OFFICE
BARI

(1151)

29 Dec. 44.

Ref : BZ/LEG/2/6163/0

Subject : Application for review of sentence.

To/ : C.L.O., Legal Sub Commission

1. Forwarded herewith is application for review of sentence submitted by SQUEC, Paolo, together with record in his case.
2. As this was a case of theft of tools from a place of employment it is submitted that this sentence is a proper one and should stand.
3. As your HQs is aware thefts of Allied Property in BARI have continued on a large scale for over a year, and it is submitted that the situation calls for substantial sentences from the A.M. Courts now sitting there, for deterrent effect.

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

5 JAN 1945

JABC/gv

J.A. Boyd-Carpenter

J.A. BOYD-CARPENTER
Major LC,
Apulia & Calabria.

11

Don't depart

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WGB/pa.
5 Jan 45.

AC/4083/1/L.

SUBJECT : Case of ANTINORI Federico
SCARPA Nazzareno

TO : Regional Commissioner, ABRUZZI-MARCHE Region.
(Attn: Regional Legal Officer).

1. With reference to your letter AMV/511/14/ANC of 28 Dec 44 accompanying the record of the above case, it is not quite clear why the papers have been sent to this HQ. The recent directive issued in regard to cases under Italian Law (Ref AC/602/L) was not of course intended to apply retrospectively to cases which had already been reviewed at Regional H.Q.

2. As regards the points raised in the Petition it is not considered that there is any substance in either.

(a) The car was ~~being~~ being wrongfully used in the traveling of more than 10 kms and in the circulating without a permit quite apart from any wrongful use in connection with any offence that might have been committed against the Italian rationing laws.

(b) The point of ownership of the car is immaterial. The court is entitled to exercise the power to confiscate a car which has been wrongfully used whether it was the owner, a part owner or a bailee who was guilty of such wrongful use. If this were not so it would be possible for this penalty to be avoided simply by the party convicted of wrongful use proving that he was not the owner of the vehicle and there can be little doubt that once this fact became known no one would wrongfully use his own vehicle.

3. As this case is within the jurisdiction of your Regional HQ (see para 1 above) it is not proposed to interfere in your decision. However, it would appear from the papers that, *prima facie*, the court was entitled to exercise the power of confiscation in this case.

By Command of Rear Admiral STONE :

le
W. E. BEFFENS,
Colonel,
Deputy Chief Legal Advisor.

TO : H.Q. ALLIED COMMISSION
(for attention of Legal Sub-Commission) 4083/1 ✓ 1148

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Review of cases - No D3/FAB/45 - 45a - 45b - 45c - PELLACCHIA ANTONIO
and others

REF. : AMR/511/14/ANG

DATE : 3 Jan. '45

1. Herewith Records in above cases for review. Each of the cases involved a charge under Italian law. They were tried together.
2. An appeal in respect of the two PELLACCHIAS is also enclosed. No appeals have yet been received on behalf of the others involved.

For the Regional Commissioner



R. G. S. ALEXANDER, Major
R.L.O.

R. G. S. Alexander

73 file

5004

ALLIED COMMISSION
LEGAL OFFICE
BARI

4083/1

1147

Ref: BZ/LEG/2/6163/0

31 Dec 44

Subject: Application for review of sentence.

To : C.L.O. Legal Sub Commission, Hqs Allied Commission

I. Forwarded herewith are

- (1) Application for review of sentence by TULLO, Fedele di Vito and GIOVANIELLO, Arturo.
- (2) Record of trial of these two accused together with SACCENTE Giuseppe before A.M. Superior Court at Bari on 27 November.
2. Date shown on Form 11's is that of original irregular application for review.
3. This is a case of theft by employees of the Allied Forces. Thefts of this nature are widespread in Bari, and the sentences which are no higher than those now given by the Italian Courts for similar offences are, it is submitted, proper for the point of view of deterrent effect.
4. It is, however, submitted that sentence in respect of SACCENTE - the accused in respect of whom no Form 11 has been submitted - might well be reconsidered with a view to reduction having regard both to his age and to Trial Judge's comments.

J.A. Boyd-Carpenter
J.A. BOYD-CARPENTER
Major L.O.
Apulia & Calabria.

X5

HEADQUARTERS A. IED COMMISSION

APO 394

Legal Sub Commission

1146

/jpl

AO/4083/1/L

3 Jan. 45

Subject: Case of 1. BINI Raffaele, 2. GEMIGNANI Annibale, 3. MATTEI Emilio, DAINI Alvarado and PINI Giuseppe.

To : Regional Commissioner, TOSCANA Region (for Regional Legal Officer)

1. Returned herewith are the record in the following cases:-

- (a) BINI Raffaele
- (b) GEMIGNANI Annibale
- (c) MATTEI Emilio, DAINI Alvarado, PINI Giuseppe.

2. In the first two cases the charges are unsatisfactory for the following reasons:-

(a) They do not state specifically what provision of Italian law has been violated: the article of the decree referred to in the charge does not impose any duty-it merely deals with punishments.

(b) That decree has been revoked: article 12 thereof is re-enacted by R.D. No. 245 of 22 Apr. 43, but it is immaterial as the charge is under the previous law and the punishment is therefore also under the proclamation. The charge should have been under Proc I art 44 for having contravened Art. 6 of Ministerial Decree of 19 Jun 42.

3. In the other three cases, the charge is laid in each case under PC art 645. It is extremely doubtful if the charges could properly be laid under that article: they should have been laid under the Law of Public Security art. 37 which provides:-

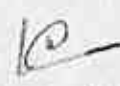
"Hawking (vendita ambulante) of alcohol beverages of whatever strength is prohibited."

4. In each of the above cases only a fine has been imposed: and in each case the accused was clearly guilty of some contravention and the nature of the offence for which he was before the Court was quite apparent. Therefore, the convictions have been affirmed.

5. The above remarks are made not with the intention of being critical: it is well realised that A.I.C. do not have the expert advice available in Rome, but to show the danger of Allied Military Courts trying cases under Italian law. Your attention is drawn to Consolidated Instructions art. 14 which provides that charges under Italian law may be preferred only with the authority of the Regional Commissioner (who may delegate the power) and that such charges will only be brought in exceptional circumstances.

6. When local conditions permit cases such as these should be tried by Italian Courts. In other conditions the selling of wine to soldiers should be controlled by I.M.C. order.

Enc: Record of 5 cases.


W.A. BENNETT
Colonel
Deputy Chief Legal Adviser

HEADQUARTERS ALLIED COMMISSION
APO 394
Legal Sub Commission

1145

/jpl

AC/4983/1/L

3 Jan. 45

Subject: Case of SANTONI Adolfo

To : Regional Commissioner (for Regional Legal Officer) TOSCANA Region.

Reference R/VIII/19/9008 of 27 Dec. concerning the case of SANTONI Adolfo, the enclosures to which are returned.

1. The case is most unsatisfactory for the following reasons:

(a) It is hard to understand why SANTONI should have been arrested, when it is common knowledge that the Italian troops now fighting in this theatre are trained and largely equipped by USA and Great Britain.

(b) SANTONI was arrested on 24 Nov., but did not come before a summary Court until 21 Dec. It is requested that you give this point your personal attention to ensure that similar delays do not again occur.

(c) Major Caldwell's handling of the case is open to criticism.

At the time of trial, the accused had already been in custody from 24 Nov. (27 days): but the court on seeing the accused's military identity card dated 1 Nov. 44 specifying his battalion and unit merely adjourned the case sine die.

Art. 4 of the Consolidated Instructions provides emphatically that in the absence of some very special reason to the contrary the jurisdiction to try Italian troops will NOT be exercised. No such special reason existed in this case; indeed, special reason existed to the contrary, as it is clearly undesirable that Italian soldiers on duty with a unit should be tried by an Allied Military Court.

In the opinion of this HQ it would have been wrong to have tried this man in the circumstances: but it was even more wrong merely to adjourn the case sine die for if the Court had heard the case, the accused would at least have had an opportunity of explaining how he came into possession of the articles.

(d) It is considered that when the papers were received at Regional HQ, immediate action should have been taken by the Regional Legal Officer who has ample authority to deal with such a case.

2. Immediately the papers were seen by an officer at this HQ (on 2nd Jan. 45) a signal was sent ordering the release of SANTONI; but from the date of arrest until action can be taken on that signal some 6 weeks will have elapsed.

During that period an Italian co-belligerent soldier on active service with a unit will have remained in gaol without trial merely because he was found in the possession of articles which may well have been issued to him as part of his equipment.

- 2 -

3. This letter is prepared on the instructions of the DCLA who would have signed it personally but for the fact that he has to-day gone into hospital for a few days.

W.E.
W.E. BENTLEY
Colonel
Deputy Chief Legal Adviser.

File
4083/1.

1144

REGIONAL LEGAL OFFICER

TOSCANA REGION

9138

2 JAN 45

ROUTINE

RESTRICTED PD

PARA ONE SUBJECT IS CASE OF SANTONI ADOLFO PD

PARVEN TO REGIONAL LEGAL OFFICER TOSCANA REGION FROM ALCOM FROM LEGAL PAREN

PARA TWO PD ABOVE MAN RETAINED IN PISA JAIL WILL BE RELEASED IMMEDIATELY PD YOUR LETTER

ROBERT VICTOR ONE ONE ONE SLANT NINETEEN SLANT THREE ZERO ZERO EIGHT OF TWO SEVEN

DECEMBER FORTY FOUR REFERS PD LETTER FOLLOWS PD

PARA THREE PD ACKNOWLEDGE

4083/1
4083/1HEADQUARTERS REGION V
ALLIED MILITARY GOVERNMENT

1143

File Ref: *RVIII/19/1013*

Date: 31 December 1944

SUBJECT: Records in AMG Cases

TO : CHIEF LEGAL ADVISOR A.C. ✓

1. Ref. A.C./4083/1/L your letter 28 Dec. 1944. The error in forwarding cases, referred to, was discovered by me after I had permitted several to be sent forward.

2. Consolidated Instructions Art. 3, 6 (a) will be strictly followed.

Anthony P. Nugent
Major ANTHONY P. NUGENT
Deputy R.L.O.
Toscana.

LEGAL SUBCOMMISSION	
CLO	
CLO	
Chief Counsel	
CLO	
Legal Section	
CLAS	
3 JAN 1945	

2 JAN 1945

A. C.

L

4883/11 ✓

ALLIED COMMISSION
SICILIA REGION HEADQUARTERS
APO 394

1142

FILE: RLE 013.04/EKM

29 December 1944

SUBJECT: MONCADA Salvatore & Others.
(S.L.C.P. Case)

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

1. Herewith petition for reconsideration of the conviction and sentence of the prisoner MONCADA Salvatore which is forwarded for disposal by the Chief Legal Adviser on account of the fact that the appellant raises the unusual point that through mistake or ignorance the defence was not properly presented. Although the petition does not say so I am informed that the alleged omissions in the defence are attributed to the defending lawyers.

2. I have no personal knowledge of the case at all but the facts are clearly given in the synopsis of W/Comdr DICKIE which is on top of the case Record also enclosed.

3. Since the trial there have been innumerable appeals on the usual grounds on behalf of the appellant and the three other prisoners but these are not enclosed on account of their bulk. All have been refused.

4. So far as I have been able to ascertain no application was made to the Court for additional time to prepare the defence. The Appellant has not paid the fine imposed.

For the Regional Commissioner:

E.K. Matthews Capt
E.K. MATTHEWS, Captain,
Regional Legal Officer.

sf

Encl: Case Record.
Exhibits G, H, N, O,
P, Q are not encl because
of their bulk.

72

ALLIED COMMISSION
LEGAL OFFICE
BARI

REF : BZ/LEG/2/6150

SUBJECT: Case record(s) forwarded for review.

TO : C.I.O., Legal Sub-Commission, HQs
Allied Commission

Number 30^a 1944
1

1. Forwarded herewith for review on expiry of 30 days from date
of trial are record(s) in undermentioned case(s).

No application for review of sentence has been received.

Bari/5/3. SCARAMELLI, Filomena and SARDELLI, Teresa.

BITONTO/5/3 LOGARICO, Anacleto.

BARI/5un/6 CECILIE, Najo

BARI/5un/7 PORCELLI, Angelo

BARI/5un/8 PASQUALELLO, Carmelo

BARI/5un/10 ZAMBON, Romano

BARI/5un/12 QUARANTA, Vincenzo

BARI/5un/13 SPAGNOLETTI, Carmine and SPAGNOLETTI, Nunzia.

Not to be shared that results are NOT.

1. Forwarded herewith for review on expiry of 30 days from date ~~of~~ of trial and record(s) in undermentioned case(s).
- No application for review of sentence has been received.

No addition for review of sentence has been received.

Ben/5/3. SCARABELLI, Firenze and SARDELLI, Torino.

BITEN 70/5/3 LOG-R/ECO, Amc 6264. 2.

BARI/Kun/c
(5C-LIE, No. 1317-25)

BARRETT, Susan / 17732104

BAR/Sun/8 PASQUATLKO, Casselle

PARI/Σ₁₀ ZAMBON, ZOTTARO

BAT. 1500/12 QUARANTA, Un Canzo

BARI / 5-13
SPAGNOLETTI,
Cesare
and SPAGNOLETTI
Nicola.

Note. It will be observed that results are NOT accurate.
This was due to misunderstanding by Todger, and
has been corrected. A.P. 1-11-11.

FRANKLIN

RECEIVED - CAD

Major, I.C.,
Aquila & Calabria

2

1140

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/pa.
2 Jan 45.

AC/1003/1/L.

SUBJECT : Case of CARACCIOLO Arnaldo and SETTER Luigi.

TO : Regional Commissioner, TOSCANA Region.
(Attn: Regional Legal Officer).

1. This Sub-Commission has heard that the record in the case of CARACCIOLO Arnaldo and SETTER Luigi tried in Livorno on 9 Dec 44 has been referred here for decision of a certain point; is this true? At the time of this writing, it has not yet arrived.

By command of Rear Admiral STONE :

W. R. HARRIS,
Colonel,
Deputy Chief Legal Advisor.

0 9 3 2