

ACC

10000/142/642

10000/142/642

SOLDIERS OF ITALIAN ARMY IN JAILS
APR. - DEC. 1944

4 8 8

FILE CLOSED 17 December 1944

✓ 4086/2. (11 A)

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

FROM : H.Q. AMG, ABRUZZI MARCHE REGION

SUBJECT : Case of FERRUCCI Giuseppe - Italian Military Tribunal of Macerata

REF. : AMR/511/14/AP

DATE : 19 Dec. '44

1. Ref. your AC/4086/2/L dated 17 Dec. '44 the documents relating to the above case do not appear to have been returned therewith. May these be sent on please?

2. The Procuratore del Regno of Fermo will be instructed to take this case up with the Italian Military Tribunal of Macerata as soon as that Court commences to function.

LEGAL SUB-COMMISSION	
C.O.	
D.O.	
Chief Counsel	
CIO	
Italian Section	
CL RKS	
21 DEC 1944	

For the Regional Commissioner

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

13

3863

HEADQUARTERS ALLIED CO. ISSION
APO 394
LEGAL SUB-COMMISSION

10A

EG/mt.
17 December 44.

AG/4086/2/1.

SUBJECT : Case of FERRUCCI Giuseppe - Italian Military Tribunal
at Macerata.

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

1. With reference to your AMR/511/14/AP of 16 Nov. 44 please find enclosed a copy of a letter of the Procuratore Generale Militare which is self-explanatory.

2. You will note that the above mentioned enclosed letter also contains an answer to your AMR/511/36 of 14 Dec. 44 in respect of the Military Tribunal of Macerata. This Sub-Commission has applied to the Procuratore Militare Generale for the exact date on which the transfer of the Tribunale to Macerata will be completed. You will be advised as soon an answer is received.

3. The documents relating to the FERRUCCI case are returned herewith.

By command of Rear Admiral STONE:

Incl.

G. B. HARRAFORD
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

-12

PROCURA GENERALE MILITARE
DEL RE IMPERATORE REGNO

PRESSO IL

TRIBUNALE SUPREMO MILITARE

N. 1214

prof.

resp.

STAMPERIA REGIA DI ROMA

ALLEGATI N. due

OGGETTO : FERRUCCI Giuseppe di Giacomo.

Sono state eseguite ricerche presso il tribunale militare territoriale di guerra di Roma allo scopo di rintracciare il procedimento penale a carico del nominato in oggetto, ma l'esito è stato negativo.

Per quanto risulta dai documenti allegati al foglio cui rispondo, il reato di diserzione è inesistente, perchè commesso ai fini di non rispondere alla chiamata alle armi del sedicente governo della repubblica sociale italiana, mentre elementari a carico del FERRUCCI sussisterebbero in ordine al reato di rapina.

In mancanza dell'incarto processuale non è dato stabilire in modo preciso la posizione dell'imputato.

Cotesta Sottocommissione Legale potrà interessare il procuratore militare del Regno presso il tribunale militare territoriale di guerra di MACERATA - in Via di trasferimento da S. Maria Capua Vetere - che ha giurisdizione sul territorio della provincia di Ascoli Piceno.

Nel caso in cui non sia possibile rintracciare l'incarto processuale, potrà quel procuratore militare, mediante l'interrogatorio dell'imputato e la ricostruzione degli atti, definire la pratica e norma delle leggi vigenti.

Restituisco le due comunicazioni trasmesse.

Indicare sempre nella risposta, la data e i numeri della presente.

Rom. addì 14 dicembre 1944

ALLA COMMISSIONE ALLEATA
SOTTOCOMMISSIONE LEGALE

Via Veneto R C M A

Se. file. SA

N. 1314

prot.

resp.

STAMPERIA REALE DI ROMA

ALLEGATI N. due

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Restituisco le due comunicazioni trasmesse.

IL PROCURATORE GENERALE MILITARE

(U. Borsari)

W. Borsari

1 DEC 1944

TO : H.Q. A.O. (for attention of Legal Sub-Commissioner) ✓
 FROM : J. AMG/AC AB REI MARCHE REGION ✓
 SUBJECT: Italian Military Courts - Macerata Tribunal.
 REF. : AMV/511/36.
 DATE : 14 Dec. '44

8A

1. Ref. your AQ/4086/2/L dated 21 Nov. '44 enquires have been made regularly in Macerata since that date but (up to about a week ago) none of the authorities there have received any information regarding the establishment of the above Court.
2. It would appear that some hitch may have taken place and I would be grateful for any information as to when this Court may be expected to commence operations.

For the Regional Commissioner

LEGAL SUB-COMMISSIONER
CLO
DCLO
Chief Counsel
CJO
Italian Counsel
CL RKS
1 DEC 1944

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

This court is being transferred to
 St Maria Capua Vetere to
 Macerata as should be in a position
 to operate any day -

4201

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

FROM : H. AMQ/AC ABRUZZI MARCHE REGION

SUBJECT : Italian Military Courts

REF. : AMR/511/36

DATE : 17 Nov. '44

4086/2

HEADQUARTERS
18 NOV 1944
C.

(6A)

Text, Term *W.C.L. Trial to open after a few days*

1. My attention has been drawn by the Procuratore del Regno of Macerata to the fact that there are 10 cases involving Italian Military personnel pending in his Procura which require to be transferred to the appropriate Italian Military Court.
2. The cases referred to involve charges under Art. 5 LDL 27 Jul. '44 No 159, This Decree deals with acts committed against the Defence of the State eg. collaboration with the Germans etc.. Violations are within the sole jurisdiction of the Italian Military Tribunals.
3. ~~Meantime~~ Will you please confirm that the correct course is for the Procuratore del Regno to transfer the prisoners and records to Rome?
4. In view of the difficulties and delays attendant upon the transporting of witnesses etc. to Rome it might be worth considering the possibility of arranging for a Military Court to travel on circuit in this area.

SUB-COMMISSION

For the Regional Commissioner

CO

COLO

Chief Counsel

CJO

Italian Section

C. 825

opening of Military Court at Macerata

for de Benedetti
R. G. S. Alexander

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

8

19 NOV 1944

HEADQUARTERS ALLIED COMMISSION
APO 894
LEGAL SUB-COMMISSION

ES/rm.

18 Nov. 1944.

AC/4086/2/L.

SUBJECT : FERRUCCI Giuseppe di Giacomo.

TO : H.E. the Procuratore Generale Militare
Via degli Acquasparta 2,R O M E

1. As it appears from the enclosed report of the CORR of Fermo Prot. D. 1687/95 of 10 Oct. 1944 the above party was arrested on 1 July 1944 on basis of a warrant issued by the Tribunale Militare Regionale di Guerra of Perugia and has been held in the prison of Fermo awaiting trial. He lodged a petition with the Allied authorities which is attached for your information and return please.

2. Obviously no action can be taken in this case until the respective file is recovered from the Perugia records. It has been suggested that the file might be found at the Tribunale Militare at Rome. Your assistance in tracing the file as well as your recommendation as to the disposal of the case would be appreciated. Could the file, when found, be forwarded to this Sub-Commission please together with the two communications enclosed with this letter.

3. The only regimental particulars which could be obtained from FERRUCCI are the following: his regiment was the 2nd Bersaglieri at one time stationed at La Marmora, Rome, and his commanding officer was Col. TOMASSINI Nicola; he did not know his personal number.

Dep
A.R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

2 Incls:

Incl 1 - Report of CORR

Incl 2 - Petition for FERRUCCI

58
Translation.

To: AMG. Al Jli Piceno.

I, the undersigned Ferrucci Giuseppe di Giacomo, born in Fermo on the 20th of Feb. 1924, wish to say to this H.Q. as follows :-

Having been arrested by the CC.RR., I am now in the Prison of Fermo since 1 July 44, being accused of desertion and robbery but to date I have never been questioned in order to remove such grave accusations, and therefore I ask for your protection, telling the facts as really happened.

As for desertion, I was deferred to the Military Tribunal of Perugia, for not answering the calling to arms of the Republican Army, and hid during 7 months in the mountains.

As for robbery, it is based on the fact that I, being in service as "Guardia Repubblicana", called up with menaces, I stopped a civilian, taking from him tobacco, for a value of about 8000 lire.

The above named civilian, who later on appeared to be a Carabinieri, after the confiscation, obtained the restitution of the tobacco from my superiors and I did not know anything on this fact. This happened in Dec. '43.

On July 1st '44 the same Carabinieri whom I had arrested in December, arrested me, evidently as a reprisal.

I therefore beg this Command to examine my position in a benevolent way and to give me back my liberty, because I have committed no crime, bearing in mind my long detention and necessities of my family of whom I am the chief support.

Thanks

Ferrucci Giuseppe.

No transport to get to him to Perugia.

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

FROM : H.Q. AL. AG ABRUZZI MARCHE REGION

SUBJECT : Military Prisoners

REF. : AMR/511/14/AP

DATE : 16 Nov. '44

(5C)

1. The enclosed Petition has been received in respect of one FERRUCCI Giuseppe. I have obtained an arrest Report and this is also enclosed. The man was arrested on 1 July '44 and is still in prison at Fermo awaiting trial.

2. The Procuratore del Regno of Fermo states that the delay in bringing the man to trial is due to the fact that all the papers were in the possession of the Italian Military Court at Perugia which I am informed has now ceased to exist.

3. If the man's story is correct it would appear that his desertion was from the Fascist Republican Army and is thus no crime at all. As to the robbery charge I have asked the Procuratore del Regno whether he can deal with the case assuming (a) the charge for desertion is dropped and (b) the papers are recovered. He has replied that he cannot because the necessary witnesses are not in the district. Whether the man is to be regarded as a soldier and as such not triable by a civil court is another point.

4. The first thing would appear to be to trace the papers in the case. May application please be made to the Military Tribunal at Rome in order to recover these from the Perugia Records whenever these may now be?

5. I have tried to ascertain the man's regimental particulars. The only information my P.L.O. at Ascoli was able to obtain from him was that his regiment was the 2nd Bersaglieri at one time stationed at La Marmora, Rome and that his commanding officer was Col. Tomassini Nicola. The man did not know his personal number.

For the Regional Commissioner

R. G. S. Alexander

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

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

4086/2
2

HEADQUARTERS
ALLIED CONTROL COMMISSION
Public Safety Sub-Commis. n
APO 394

Tel : 478709

29 August, 1944.

ACC/14043/PS

SUBJECT : Prisons.

TO : His Excellency, Minister of
Grace and Justice.

1. It is understood that your Ministry will become responsible for Italian Military Prisoners who are serving sentences in excess of 30 days, or who are awaiting trial over 30 days. Further, that these prisoners will be fed on the civilian scale and not on Army scale rations.
2. It is not proposed to transfer military prisoners to civil jails, as no accommodation is available. In fact, civil jails are already overcrowded.
3. Arrangements are being made to transfer certain military jails to the civil authority. The accommodation thus made available will be sufficient to house all military prisoners, including those at present in civil jails.
4. The effect of this arrangement should be, that more accommodation will be available in civil jails for civil prisoners. For example, it will enable 459 Military prisoners to be moved from BMT prison, and 285 from LBCE prison.
5. The question of staffing the military prisons handed over, is one of some difficulty, but it is hoped that some arrangement can be made with the Minister of War.
6. Pending the completion of the above scheme, it is suggested that Prison Directors be informed that no further Military Prisoners should be accepted into civil jails.
7. The Military Mission to the Italian Army is formulating this scheme in conjunction with the Minister of War, and it is anticipated that concrete proposals will be put forward to you in the very near future.

Copy to : R.C. & M.G. Section
Admin. Section DCL
H.W.I.A.
Legal S/C.

FJW/G.

Handwritten: Wilson M.A.T.
PAUL G. KIRK
Colonel Infantry
Director Public Safety
Sub-Commission.

REAR HEADQUARTERS
ALLIED CONTROL COMMISS. N
APO 394

486/2
QS/mms

3

Q3214

6 April 1944

SUBJECT: Soldiers of Italian Army in Jail.

TO : Secretary General, Main HQ. A.C.C., Naples.

Herewith copy of G/6/1/32 of 24 Mar. which you stated today had not been received in your office.

1. I had a signal yesterday from Army Sub/Comm., Main HQ. asking me to find out if there are any special reasons why they had not received an answer.

2. With regard to questions put to C.C., my own opinion is:-

a. Soldiers who are in prison but who have not been convicted must be considered a part of the Army for all purposes including rations.

b. Soldiers who have been sentenced:
This involves questions of status. Legally they are soldiers till their classes have been demobilised. On the other hand, we say they must be "effective" in order to qualify for rations. I do not consider a long-term prisoner is effective even though he still remains on Army rolls. It seems that we should set a period at which a prisoner is contractually considered ineffective for rations and, recommend six months as the dividing line.

3. In the British Service a man given imprisonment or penal servitude is usually discharged with ignominy and this automatically takes him off the Army books. On the other hand, for purely military offenses, he is given detention (not in civil jail) which can be up to maximum of two years. In practice, however, more than six months detention is seldom given, imprisonment then being awarded.

4. If the C.C. agrees, I will inform Army Sub/Comm., Main HQ. or I can obtain an opinion from the Legal Sub/Comm. on the question of status.

5. I believe the C.C. is aware of the extreme congestion of civil jails by military personnel. It has been proposed that stockade camps be set up to take all short-term military prisoners and others awaiting trial. If this is adopted it will mean that, at most, only military prisoners sentenced to periods above six months will remain in civil prisons and will, in fact, be on civil rations.

1 Incl. as above.

Specially copied 7 April
for info.TO: Army Sub/Comm. Main HQ.
Legal Sub/Comm., ref. para 4. ✓
Public Safety Sub/Comm.

(G. W. QUINSMITH)
Army Sub-Commission

Lt. Col.

COPY
N26/28FROM: MMIA 271200
TO : MARTINA FOR MACFARLANE
SD446 27

144

(2)

28 March

ADDITIONAL TO OUR G/6/1/32 of 24 March. TOTAL IN BARI
JAIL IS 608. IN TARANTO JAIL IS 125 IN MARTINA FRANCA
JAIL IS 43. OF THESE 256 HAVE BEEN TRIED AND ARE
SERVING SENTENCES. OTHER FIGURES TO FOLLOW WHEN AVAIL
ABLE

SENT NR 28092 28/1147A
REC NR 2 28/1147AACC DISTINFO: SECY GEN
DEP CC
CA BR
PUBLIC SAFETY SC
LEGAL SC
MMIA LO
ARMY SC (Salerno)
FILE
FLOAT

COPY

2

(COPY (Amended by sign) SD446 of 28 Mar) attached.

SUBJECT: Members of Italian Army in Jail.
Chief Commissioner A.C.C.
 my Sub-Commission A.C.C.
 Main HQ (MMA) LEQUILLE (LECCE)
 G/6/1/32 24 Mar 44

Copy to: HQ. A.A.I.
 A.A.I. (Adm Ech)

1. Information having reached this HQ. that large numbers of Italian soldiers were held in jails, an investigation was initiated, and facts regarding three groups have been verified as follows:

a. In LECCE Jail

(1) Men tried and sentenced, penalties ranging from a few months to death	219
(2) Men awaiting trial for	
Desertion	114
Insubordination	20
Theft	11
Murder	3
Misc	2
Total	<u>150</u>
	369

b. In NICASTRO Jail

(1) Men tried and sentenced	41
(2) Men awaiting trial	<u>17</u>
	58

c. In CATANZARO Jail

(1) Men tried and sentenced	6
(2) Men awaiting trial	<u>44</u>
	50

d. In BARI Jail

Total held (unconfirmed)	608
--------------------------	-----

e. In TARANTO Jail

Total held (unconfirmed)	125
--------------------------	-----

f. In MARTINA FRANCA Jail

Total held (unconfirmed)	43
--------------------------	----

NOTE: Of d.e.f. 256 have been convicted

2. The investigation so far develops the following facts:

- In addition to the numbers shown in para 1, above, an unknown number of Italian soldiers are held in other jails. The Ministry of War is attempting to secure the exact figures, and until the investigation was started by this HQ had no apparent knowledge of the situation.
- Italian soldiers who have been convicted and sentenced are carried on the active rolls of the Army until their classes are demobilised, at which time they are transferred to civil authority. All of the Italian soldiers listed in para 1a, b, & c, above, are carried on the active rolls of the Army.
- Italian soldiers in jail are included in the ration strength submitted to the Ministry of War to this HQ. Rations are issued to

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(1) Men tried and sentenced, penalties ranging from a few months to death 219

(2) Men awaiting trial for

Desertion	114
Insubordination	20
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b. In NICASTRO Jail

(1) Men tried and sentenced 41
(2) Men awaiting trial 17
58

c. In CATANZARO Jail

(1) Men tried and sentenced 6
(2) Men awaiting trial 44
50

d. In BARI Jail

Total held (unconfirmed) 608

e. In TARANTO Jail 125
f. In MARTINA FRANCA Jail 43

NOTE: Of d.e.f. 256 have been convicted

2. The investigation so far developed the following facts:

- a. In addition to the numbers shown in para 1, above, an unknown number of Italian soldiers are held in other jails. The Ministry of War is attempting to secure the exact figures, and until the investigation was started by this HQ had no apparent knowledge of the situation.
- b. Italian soldiers who have been convicted and sentenced are carried on the active rolls of the Army until their classes are demobilised, at which time they are transferred to civil authority. All of the Italian soldiers listed in para 1a, b, & c, above, are carried on the active rolls of the Army.
- c. Italian soldiers in jail are included in the ration strength submitted to the Ministry of War to this HQ. Rations are issued to the jails by Italian Army Depots from stocks made available to the Italian Army by the Allies.
3. Decision is requested as to the policy to be adopted:
- a. Are condemned soldiers to be considered as active soldiers of the Italian Army for the purpose of drawing Allied rations?
- b. Are Italian soldiers held in jail awaiting trial to be considered as active soldiers of the Italian Army for the purpose of drawing Allied rations?

Brigadier,
Army Sub-Comm ACC.

AEC

COPY

0368

