

2021

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

785016

ACC

10000/142/794

DECISIONS ON J
MAR. 1944 - JAN.

2/794

DECISIONS ON JURISDICTION OF CASES IN ITALIAN GOV'T TERRITORY
MAR. 1944 - JAN. 1946

(29)

VP CA Sec

1. File submitted herewith is an application for an A.M. Court in Brindisi.

2. The case is a simple petrol fraud, through which officials and/or employees of the Consorzio Agrario by a well thought out scheme, took advantage of a weak system in operation at the time at Brindisi docks whereby financial advantage could be obtained from the stealing of petrol from No 12 Petrol Depot.

28 drums of American origin, each of 44 gallon capacity, are involved.

3. It is considered that under all the facts, trial by the Italian Courts should suffice.

Legal S/C
16 July 1945

Legal

John K. Weber
JOHN K. WEBER,
Colonel,
Chief Judicial Officer

Application refused

gph *Big*
for ce.

VP Ca Section

1. The case submitted herewith is an application for an
A.M. Court in Brindisi.

2.

VP. CAS.

Case of M. Sanuto and Assoc. (Bari)

Attached file relates to application for AM Court in Bari.

The case is a simple petist fraud, through which the two principal officials of the Office Special Genis Civile Violenta Statute di Bari obtained excessive petist from allied sources by making false returns. The amounts involved are large.

Ordinarily would not consider an AM Court but I am told that SIB and the Area Court are very keen to show the case heard. I still think that for the old reasons we should refuse.

6 July 1945

Legal

Application refused.

7 July

Sperry
for CC.

W. J. C. A.

Document: Sanuto

28
Case file 27/10/45

W. J. C. A.

VP. CAS.

(24)

84H cfer

1. Pennie and Di Cisto are charged with killing, by stabbing, a Basuto

outside Naples.

2. It appears that there was a quarrel between the 3 men, and it would seem that the Basuto took a stick, knocked down Pennie and proceeded to beat him. Di Cisto ran away but Pennie got out a knife, stabbed the Basuto and ran away. The Basuto died 9 days later.

3. The evidence is, of course, conflicting and probably a good deal untrue. The Basuto made a statement, which does not sound true but in the course of which he admits taking the stick. The two men say that the Basuto, with 2 other negroes (this is, probably a lie) started by demanding money.

4. There is no evidence against Di Cisto of anything.

5. Pennie would probably succeed on a plea of self-defense. If this failed he would be convicted of omicidio colposo - on the evidence available - which carries 6 months - 5 years.

6. In commencing the case the court authority be granted for the trial in Naples by Superior Court, if Pennie for omicidio colposo - but the judicial authorities should be informed that the charge will probably fail and that more serious inquiry may possibly be obtained if the Italian courts wish to take the case. The judicial authorities

with 2 other vapors (this is, probably a lie) reaction of evidence.

4. There is no evidence against Di Cisto of anything.
5. Perino would probably succeed on a plea of self-defense. If this failed - he would be convicted of omicidio colposo - on the evidence available - which carries 6 months - 5 years.
6. Recommended to suppress the ex. authority be granted for the trial in Naples by Superior Court, if Perino for omicidio colposo - but the judicial authorities should be informed that the charge will probably fail and that more success ~~likely~~ ^{possibly} be obtained if the Italian courts undertake the case. The military authorities

~~Walden~~ ~~CA~~ ~~Dia. A.~~

26 May 2015

degol.

I agree with the procedure recommended by you in para 6. *Exempting*

per cc.
spinal

29 July 45.

letter written 85B

80H 212

This is an application for AM Court near POTENZA for the time of 15 or more persons who acted, lynched or were U.S. soldiers, and were made another after attack had run into a religious procession.

While the reasons for a court are appreciated, the following points should be

shown

1. The case will be difficult to try in order to determine exactly what each accused did. It may take a long time to prosecute.
2. The practical difficulties of personnel and place
3. Chionetti informs me that an Italian court would show weakness and would give sentences of 20 years or more on charges of rape and murder.
4. Italian courts are much better equipped to handle the various statements.

I recommend

- a/ that the application be refused
- b/ that a couple letters be written to the US authorities explaining why
- c/ that the case be referred to the Italian courts and Turpin asked to write the PG before the importance of a rapid trial

document.

2028

785016

no mercy and would give sentences of 20 yrs or more on charges of riot and murder.
4. Italian courts are unable to handle qualified to unravel the various statements.

I recommend
a/ that the application be refused
b/ that a complete letter be written to the US authorities explaining why
c/ that the case be referred to the Italian courts and Turpin asked to write the PG to show the importance of a rapid trial and adequate punishment.

Walden.
C. D. J. A.

18 May 1945
Legat S/C:

223

VP CA Sec
* 2 letters awaiting signature of VP CA
Since Minute 22 was written a letter of request for an Allied Military Court has been received from the interested U.S. Army Authority - HQ ARMY AIR FORCE - (letter at flag "1") - 8/14

The report of investigation forwarded with this letter is the same as that originally submitted in Minute 1 with the exception of the photographs at flag "B".

Legat S/C
23 May 1945
See letter file 87A-834
W. R. BIERENS, Colonel,
Deputy Chief Legal Advisor.
Jm Welsford. JSD

MINUTE SHEET DE

19

D/Exec. Com.

cc. cc.

To:

At this ^{75A} there is submitted for the approval and signature of the loan officer by C.C. despite letter to the effect of Corvici Rite, for whom an application has been made for travel in A.G. cont.

The VP. has disapproved this matter with C.C. and the letter is in the form agreed.

C.H.

22 MAR 45.

X. 608

23/3

cc 776

MAR 24 1945

H. P. Lipp

cc

24/3

20

Chief Commissioner

Attached is submitted for your ~~information/signature~~

cc file copy withdrawn.

7

287

24/3

20

Chief Commissioner

Attached is submitted for your information/signature/

7

cc file copy withdrawn.

CASec

Ref. Minute 20 above. Letter to Hy.

15 Air Force is returned signed by chief

Commissioner. (SIA 115 111) } Shorden Cpt

Office, E.A.C.
26 Nov 45.

Legate 22. His returned & then signed

CAS.
26/11/45

CHS

229 MAR 20

X. 608

23/3

[Signature]

CC 776

MAR 24 RECD

24/3

20

Chief Commissioner

Attached is submitted for your immediate signature/

7

CC file copy withdrawn

138

21/5

CA SER

Ref. Minister 20 letter. Letter to HQ

IS His letter is returned signed by Chief

Commissioner

Office, B.C.C.
26 MAR 45

[Signature] CP

Regard to his letter, letter signed

CAS.

26/3/45

TO: CSO for VP.

- 18
- 74 ABC
1. I have read through the attached papers with some care.
 2. It is true as Minute 1 indicates, that;
 - a) there is contradiction in the evidence presented in the report;
 - b) that the Polish soldier may not be available as a witness;
 - c) that there may be some difficulty in holding a military court in Lecce.
 3. Non-the-less I believe that it would be very difficult to get an impartial verdict from an Italian court on the case.
 4. Moreover, we are not going to satisfy the Air Force Commanding General by telling him that ~~the~~ Italian court will try the case.

14 March 45.

W. G. S. Dollard
WILLIAM A. S. DOLLARD
Major

V.P. C.A.S.

74H

17

An American negro was killed and a Pole wounded by one bullet fired by Colucci in his house on Jan 45. The negro was drunk and engaged in some sort of struggle with Colucci's wife. The Pole was trying to stop the negro. The stories are not consistent but there was some provocation on any version.

The time, if authorized, would have both held at Lecce - before officers are being with them - it is doubtful for if the Poles were to arrive with no evidence.

15th Air Force strongly requests that Colucci - but I feel there is the new conditions it would be better to learn the case with the Italians who have already started to investigate.

134 Jan 45.

~~W.D. Jones~~
D.C.A.

2035

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

785016

287

130 Jan 48.

Dec 1

TO : VP, CA Sec.

70A

15.

1. Attached application for an AM General Court in Bari is a case which involves the larceny of WD property from a railroad car by an organized gang of Italian civilians, railroad men and soldier guards.

2. The property stolen is valued at more than \$23,000. and the application is based on the incapacity of the Italian Courts to deal with a case of this kind.

3. However, I recommend that this case should be handed over to the Italian Courts for disposal.

W. E. Behrens

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

LEGAL S/C
20 March 1945
LCB/rlp

Legal.

Application refused.

20 Mar 45.

G. R. H. [Signature]
for CC

13

V. P. CAS.

(13)

65A

Application for A.M. Court in Bari. Apparently when Greek meets Italian it is more than a tug-of-war. A gang of Greek rogues - black-marketing W.D. property - intended to defraud an Italian gang. One Greek (? a soldier) got shot in the process. Various Italians are held for trial on various charges. S2 Area asks for an A.M. Court "if only because of the complex nature of the case." Dawson disagrees - so do I.

1 Recommend trial by Italian Courts

19 Feb 45

~~Wickham~~
Cor
J.C.A.

Legal.

(14)

1. Application refused.
2. Would it not be a good plan to ask R.H.O. Southern Region to inform A.M. & g.m. of S2 Area that the Greeks can if necessary be tried in an Italian Court See para 2 of this A 38/3/A dated 8 Feb.

G.P.H.

TO : VP CA Sec.

1. AFHQ Legal phoned to say that the Provost Marshal had applied for the setting up of an AMG Court in restored territory in order to try a number of forgers of AM lires.
2. It is the opinion of the Italian Branch that Italian Courts have in the past passed adequate sentences on forgers of Italian currency.
3. In the absence of CIA, CJO etc. could instructions be given, please.

Legal Sub-Commission
12 February 1945.

G. G. Hammond
G. G. HAMMOND, Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

To Legal

¹¹
I cannot possibly make my decision on the facts stated above. If the Provost Marshal wants to press for CJO the should state the place where the forgeries are occurring, the number of the accused the evidence & all other necessary particulars.

13 Feb.

Hammond

12.

V.P.C.A.

The letter plus 64A was drafted by me without seeing you. I think, however, that the opinion expressed is correct.

on the facts seen
 has had wants to press for facts the should state
 the place where the injuries are occurring, the
 number of the accused the evidence & all other
 necessary particulars. Spelling
 13 Feb.

12.

V.P.C.A.

The letter plus G.A. was drafted by me without seeing your
 minute. I still think, however, that the opinion expressed
 in my letter is sound. If there are circumstances ~~to~~ ⁱⁿ the
 report which are very special in any particular case, the
 matter can be referred - but on principle I recommend
 these words will be authorized.

W. J. D.

D. C. G. A.

LEGAL SUB-COMMISSION

14 FEB 1945

V.P.C.A.

Ref plus 40, 41, 42, 43

Murder of a Comm. No witnesses, no reliable evidence. RLO
 agrees conviction improbable. Recommend appeal. Duff

(letter herewith. (shown 4/3/44))

W.B. Behrens Col.
 D.C.A.

Legal Sec

NOV 1944

Supd

VP. CAS. (W.P.)

Ref. Application for Appeal Court. Refusal recommended on the basis
 does not affect allis interests, and there is a strong element of "agent
 provocation" which will be better considered in Indian Courts. Duff letter
 for signature, if approved.

16000. 44

W.B. Behrens
 D.C.A.

TO: W.P., CA Sec.

Bappee run in 8.4.12.9/11

21 December 1944--rlp

1. Attached application for a General Court at Bari for damage to a pipe line.
2. The accused, who is clearly guilty, extracted 61 gallons from a pipe line which was leaking. He assisted the existing leak with a pick-axe.
3. In view of the standing courts at Bari, the question is simply one of sentence. Undoubtedly, he could be charged with an offence carrying a penalty of 15 to 20 years. SOUTHERN region feel that the case is very serious and that a General Court is necessary. I take the view, which is shared by all members of this S/C, that no reasonable court would give over 10 years. Estimates of sentence ~~range~~ from 5 to 7 years. I have already expressed this opinion to SOUTHERN Region, but Dawson has asked for an official ruling.

W.B. Behrens

W. E. BEHRENS.

Colonel.

Deputy Chief Legal Advisor.

4/12/44

does not affect allied interests, and this is a very
 protection which will be better considered in Indian Courts.
 for signature, if approved.
 W. E. Pehrens
 D.C. 1.4.4.

16000. 44

21 December 1944--r1p

TO: WP. CA Sec.

Bates memo in 8.412-7/11

1. Attached application for a General Court at Bari for damage to a pipe line.
2. The accused, who is clearly guilty, extracted 61 gallons from a pipe line which was leaking. He assisted the existing leak with a pick-axe.
3. In view of the standing courts at Bari, the question is simply one of sentence. Undoubtedly, he could be charged with an offence carrying a penalty of 15 to 20 years. SOUTHERN Region feel that the case is very serious and that a General Court is necessary. I take the view, which is shared by all members of this S/C, that no reasonable court would give over 10 years. Estimates of sentence ~~range~~ from 5 to 7 years. I have already expressed this opinion to SOUTHERN Region, but Dawson has asked for an official ruling.

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

4129/11

To Legal. (9)

I see no reason to try the accused before
 a ~~case~~ specially constituted General Court. Please
 direct Southern Region to send the case to me
 if the existing Bari Zone Court.

W. E. Pehrens
 Bf

V.C.A.S.

E40

1. Application for Maria Court in Foreign Zone. Account in possession of

- (a) long list of "normal" W.D. property
- (b) US passport, property of his brother, with photograph cut out
- (c) Some official OMMS and ATTS envelopes
- (d) 35 blank sheets of paper bearing other letters an official ATTS

CAO's stamp imprint

- (e) various genuine signed ATTS permits and passes
- (f) \$100,000 line.

2. Account is an ex-interpretation of ATTS.

3. Clearly an Italian Court should and an Allied Court would convict and impose a heavy sentence for wrapped permission, particularly if the articles in (a) (c) and (d)

4. Articles in (b) (d) (e) and (f), which possibly contain if an innocent explanation, are greatly suspicious. There is known no evidence to support a charge of forgery etc. Nothing beyond permission (? Hype) can be proved.

5. It is true that the record was an interpretation of ATTS: even so if the Italian Court were cooperative (should have no legislation in recommending that the case be tried by them. The Foreign Court is definitely uncooperative, but I still feel that it would be a dangerous precedent to converse an allied court. undecided at dicta.

3 Nov. 44

(2)

Ref. See file D.402

4. Articles in (U) (S) and (R), concerning
 imminent explosion, are greatly suspicious. There is known no evidence
 to support a charge of forgery etc. Nothing beyond permissum (? Hept)
 can be proved.

5. It is true that the record was an interpretation of the : even so if the
 Italian courts were cooperative (should have no hesitation in
 recommending that the case be tried by them. The Foreign Court is
 definitely uncooperative, but I still feel that it would be a
 dangerous precedent to converse an allied court. undecided
in
DCIA.

3 Nov. 44

To Legal Sub

(2)

Ref See file D.405

1. Application for trial by an Allied Court refused
2. This is a case which should be remitted to the Italian
 Courts with an instruction to the R.H.O. that he is to
 require from the Court an expeditious procedure + demand
 periodical reports on the progress of the case. He should
 be instructed to watch the case carefully + order the Court
 to give the case high priority.

4 Nov 44.

Spelman

①

2 Aug 44. To Legal

1. Ref 16② 18② 19② Xitter incident?
2. I saw Brig Paton D.A.G. at Hq AAH. today & discussed the matter fully with him.
3. He will try to speak to Gen Robertson and ask him not to press for trial in an A.M.G. Court but to let the matter go over to the Italian Courts.

gph

2

1.

C.A. Sec.

Subj: Di Sora, Nicola

Ref 581 Application for an Allied Court at Salerno. A British MP was accidentally killed by negligent driving of lorry by Italian civilian. A clear case, but surely we do not want to authorize an allied court? There is no direct evidence that the military authorities want an allied, as opposed to an Italian court.

Italian court.

22 Oct 44

130 for 183 instructions

23 OCT. 1944

Application Refused.

G. R. hypoth.
Big
 for A/C.C.

229

4129/b

LEGAL

28A

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394HEADQUARTERS
3 AUG 1944
A.C.C.

7th August 1944

File : RLE 013.02/FLV

SUBJECT : XITTA Incident.

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

Reference this morning's telephone conversation.

The XITTA file is returned herewith as requested.

js.

Keyed
in Supt
in letter file
10/5/44Frank L. Vecchiolla
Major, JAGD.
Regional Legal Officer.

128

XV Case of Balletta (spy) - (aid by A.M.G.)
General Court

XVI Trial of Civilians in unoccupied territory
re: MARRA Giuseppe & CRISCUOLO VITO

XVII Trial of persons alleged to have assisted
French Security agent posing as enemy
agent (A.M.G. Military Court Case)

XVIII Case of Sessa Mario

CASES MENTIONED IN FILE NO. 4129/6/L:

- I- CASE of Gionta Giuseppe
- II- " " Insalata Antonio
- III- " " Monaco Giuseppe
- IV- " " Di Sora Nicola
- V- " " Paplarco Giovanni
- VI- " " Xitta incident
- VII- " " Taranto Train Robbery
- VIII- " " Tangari, et al
- IX- " " Brindisi Train Robbery
- X- + + Colonna volontari
- XI- " " Da Birkard Michele (tried by AMG court)
- XII- - - Disturbances at Trapani
- XIII- Case of Parisi Giuseppe
- XIV- " " Giampietruzzi M. + others

HEADQUARTERS ALLIED COMMISSION
AFU 394
LEGAL SUB COMMISSION

AC/4129/6/L

28 January 1946

SUBJECT : Case of Coluccia Pietro

TO : Il Giudice Istruttore-Tribunale Civile e Penale
LECCE

1. Reference is made to your Prot. No. 479/49 G.I. of 7 December 1945.
2. Advice has now been received that the American enlisted men are not available in view of the fact that they have been transferred from this theatre.
3. Nothing has been heard up to date from the Polish authority in regards to the attendance of Polish soldiers. This Sub Commission, however, will try to contact such authority on the question.
4. Enclosed is a report of Post Mortem Examination of Pvt. Jesse J. Gaither and AD AGO Form Numbers 8-24

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

Incls.

file *4139/6*
HQ MTOUSA, APO 512, US Army, 18 January 1946

1st Ind

RPC/ev

TO: Chief Commissioner, Allied Commission, APO 394

1. The American enlisted men are not available in view of the fact that they have been transferred from this Theater.

2. Inclosed is Report of Post Mortem Examination of Pvt Jessie J. Gaither and WD AGO Form Number 8-24.

FOR THE THEATER COMMANDER:

4 Incls

1. Ltr, 7 Dec 45, fr Presiding Magistrate, Civil and Penal Tribunal of Lucce.
2. Ltr, 5 Jan 46, fr GHQ, CMF.
3. Rpt of Post Mortem Exam on Pvt Jesse J. Gaither.
4. WD AGO Form No. 8-24.

R. P. CARTER
1st Lt, AGD
Asst Adjutant General

125

HEADQUARTERS ALLIED COMMISSION
APO
LEGAL SUB COMMISSION

99A

AC/4129/6/L

JWS/ns
27 December 1945

SUBJECT : Request for trial by AMG Court, Maj. A. Mihailovic

TO : Regional Commissioner, (Attn: R.P.C.O.)
LOMBARDIA Region

1. There is attached hereto a copy of a letter, which is self-explanatory. If an investigation report has been prepared, may we have a copy thereof?

JOHN K. WEBER,
Col., Inf.,
Chief Legal Advisor.

2052

785016

4129/61429

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

21 December 1945

G-5: 015

SUBJECT: Trial by AMG Court - Maj A. MIHAILOVIC.

TO : Headquarters, Allied Commission,
APO 394.

1. A Major Alek MIHAILOVIC has recently been detained in MILAN by HQ, No. 2 District on the grounds of obtaining POL under false pretences. This person is in possession of permits signed by himself under the title of "Royal Yugoslav Military Mission in ITALY". On the strength of these permits he has obtained fuel and lubricant coupons from 22 Area Cash Office.

2. It is requested that you contact No. 2 District and that this case be investigated by you with a view to bringing this individual to trial by an AMG Court.

3. Please report to this Headquarters the result of your investigations and the action taken by you.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. Hamblen Col
A. L. HAMBLEN
Brigadier General, G.S.C.
Assistant Chief of Staff, G-5

Copy to: Headquarters, No 2 District

G-2 AFHQ
'A' GHQ CMF

LEO

Chief Counsel

CJ

Major Jackson

CL RG

2 DEC 1945

12

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

97A

AO/4129/6/L.

13 December 1945

SUBJECT : Case of COLUCCIA Pietro.

TO : Provost Marshal - MTOUSA, APO 512
General

1. Herewith copy of letter 479/45 of 7 December 1945 received from Lecce Tribunal.
2. Will you please let this Sub-Commission know whether the American soldiers referred to therein can be made available as witnesses at the trial of COLUCCIA.
3. Your assistance is further requested as to
 - a) whether you can pass the request for the attendance of the Polish soldiers to the appropriate Polish authority, and,
 - b) whether No. 35 Hospital has been dissolved and if so, whether the records are available from which to obtain copies of the medical certificates requested in the letter.

For the Chief Commissioner

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Adviser

Copy to:

Il Giudice Istruttore
Tribunale Civile e Penale
LECCE.

COPIA

TRIBUNALE CIVILE E PENALE DI LECCE
GIUDICE ISTRUTTORE

N. 479/45 G.I. -

Lecce, 11 7 Dicembre 1945.

OGGETTO : Omicidio soldato americano e ferimento soldato polacco
ad opera civile italiano COLESCIA Pietro avvenuti in
Galatina il 1 gennaio 1945.

HQ ALLIED COMMISSION LEGAL SUB COMMISSION

R O M A

Il Commissario Capo della Commissione di controllo Contro Ammiraglio
U.S.N.R. HILKEY e STONE con rep. A.C. /4129/6/1. del 24.5.45 non riteneva che
il caso in oggetto fosse giudicato da un Tribunale Militare Alleato, ma che
esso invece fosse giudicato dall'autorità giudiziaria italiana (Lecce), auto-
rizzata alla relativa istruttoria.

E' interesse supremo di giustizia che i militari americani e polacchi
presenti al fatto o subito dopo interessati vengano esaminati da questo
Giudice. Vero e' che essi furono interrogati dalla polizia americana, ma per la
procedura penale italiana e' indispensabile che essi siano riesaminati dal
Giudice italiano; cio' e' ancor piu' necessario in quanto vi e' contrasto tra
la versione dell'imputato e quella dei suddetti militari, i quali escluderebbero
il caso di legittima difesa prospettata dal primo.

Prego, perciò, disporre che i seguenti militari compariscano dinanzi
a me in Lecce - Tribunale Civile e Penale - per essere sentiti in uno stesso
giorno quali testimoni:

- 1) - ussaro Teij Teofil 1919/149/111 - 10 - Polisto Hussir Regto
Centro Est.;
- 2) - ussaro Shusarejk Hurejk ASN 345/a/1325/LII Polisto Hussir
Regt. M.E. Est.;
- 3) - ussaro Shusarejk Shigulew 482/3/1923 Polisto Hussir Regt.
M.E. Est.;
- 4) - Serg. Anthony B. Hangan - A.S.N. 1600 1950-1032 comp. Polizia
Militare (Avr) distaccoamento N. 2;
- 5) - soldato Kurujar E. Atkins. ASN. 33210134 - 1950-1032 comp. Polizia Mil.
- 6) - Serg. Tehnier Matthews. ASN 33186999 - 909 ABS. - Co.A;
- 7) - Lockridge William 35-672-124 - soldato di fanteria compagnia "A" 909
base aerea, batteria sicurezza.-

polacchi

12.

Con altra nota del 30.11.1945 chiedevo all'Ufficio Legale Alleato di
Rari che, nel caso non fosse possibile l'escussione dei testimoni a Lecce, mi
fosse stato indicato l'esatta localita' ove i medesimi possano essere esaminati
da un Giudice civile italiano.

- 2 -

Chiedo inoltre l'esito dell'autopsia relativo al militare americano Lesse J. Gaither e della lesione relativa all'usaro polacco Teofil, entrambi ricoverati nell'Ospedale da Campo militare Alleato n. 35 ormai disciolto.

In data 1 c.m. mi si comunica dal (Liaison Office-Bari) di rivolgermi a codesto Ufficio.

Prego rimettersi con cortese sollecitazione i chiesti certificati medici (almeno in copia autentica) e disporre su quest'altro richiedo poiche' l'imputato e' detenuto dal 1/1/1944 senza che la istruzione possa chiudersi.

Il Giudice Istruttore
- Nicola Massarelli -

f.to

NICOLA MASSARELLI

4129/16
TRIBUNALE CIVILE E PENALE DI LECCE
GIUDICE ISTRUTTORE

N. 479/45 G.I. =

Iecce, li 7 dicembre 1945

OGGETTO: Omicidio soltato americano e ferimento soltato polacco a opera civile italiano COLUCCIA Pietro avvenuti in Galatina il 1° gennaio 1945. =

HQ ALLIED COMMISSION LEGAL SUB COMMISSION

R O M A

Il Commissario Capo della Commissione "controllo Contro Armato U.S.M.R. KILPATRICK W STONE con rep.A.C./4129/6/L." el 24.3.94 non riteneva che il caso in oggetto fosse giudicato a un Tribunale Militare Alleato, ma che esso invece fosse giudicato all'autorità giudiziaria italiana (Iecce), autorizzata alla relativa istruttoria e interesse supremo "giustizia che i militari americani e i lacchi presentati al fatto o subito dopo interrogati vengono esaminati a questo giudice. Vero è che essi furono interrogati alla polizia americana, ma per la procedura penale italiana è in dispensabile che essi siano riesaminati al giudice italiano; ciò è ancor più necessario in quanto vi è contrasto tra la versione dell'imputato e quella dei militari, i quali escluderebbero il caso "i legittima difesa prospettata al primo.

Prego, perciò, sapere che i seguenti militari compaiono in a me in Iecce - Tribunale Civile e Penale - per essere sentiti in uno stesso giorno quali testimoni:

- 1°) = ussaro Toif Teofil 1919/149/III = IO = Polisto Hussir Regio } po-
Centro Est.;
2°) = ussaro Shusarejk Hemrjk ASN 345/a/1925/III Polisto Hssir }
Regto.M.E. Est.;
3°) = ussaro Shusarezjh Zhigniew 482/3/1923 Polisto Hussir Regto } la-
M.E. Est.;
4°) = Serg. Authonj S. Hangan = A.S.M. 1600 1950-1952 comp. Polizi } chi-
Militare (Avr) distaccamento N.2;
5°) = soltato Marujer R. Atkins. ASN. 33210134 " "
6°) = Serg. Tohnnier Matthews. ASN. 38186999 = 3094BS. = Co.A.;
7°) = Iockri "ge William 35-672-15 = soltato "i fanteria compagnia " "
"A" 901 base aerea, batteria sicurezza.

Con altra nota el 30.11.1945 chie'vo all'Ufficio Legale Alleato

ai Bari che, nel caso non fosse possibile l'escussione dei testimoni a Iecce, mi fosse stato indicato l'esatta località ove i me'esimi possano essere esaminati a un giudice civile italiano.

Chie'vo inoltre l'esito dell'autopsia relativo al militare americano Iesse J Gaither e della lesione relativa all'ussaro polacco Toif Teofil, entrambi ricoverati nell'ospedale a Campo militare

Alleato n.35 ormai isolato.

In data 1° gennaio 1946

essi siano riesaminati "al Giudice italiano; ciò è ancor più necessario in quanto vi è contrasto tra la versione dell'imputato e quella dei suoi "atti militari, i quali escluderebbero il caso "i legittime difesa prospettata "al primo.

Prego, perciò, "isporre che i seguenti militari compaiono "in a me in Lecce = Tribunale Civile e Penale = per essere sentiti in uno stesso giorno quali testimoni:

- 1°) = ussaro Toif Teofil 1919/149/III = IO = Polisto Hussir Reglo } po-
Centro Est.;
2°) = ussaro Shusarejk Hemrjk ASN 345/a/1925/III Polisto Hssir)
Regto. M. F. Est.;
3°) = ussaro Shusarezjh Zhiguiw 482/3/1923 Polisto Hussir Regto } lat-
M. F. Est.;
4°) = Serg. Anthomj S. Hannan = A.S.N. 1600 1950-1952 comp. Polizi
Militare (Avr) "istaccamento N.2;
5°) = soldato Marujer R. Atkins. ASN. 33210134 " " "
6°) = Serg. Tohnnier Matthews. ASN. 33186999 = 3094BS. = Co.A.;
7°) = Lockridge William 35-672-154 = soldato "i fanteria compagnia.

Con altra nota "al 30.11.1945 chie"evo all'Ufficio Legale Alleato "i Bari che, nel caso non fosse possibile l'escussione "ei testimoni a Lecce, mi fosse stato indicato l'esatta località ove i me"esimi possano essere esaminati "a un "dice civile italiano.

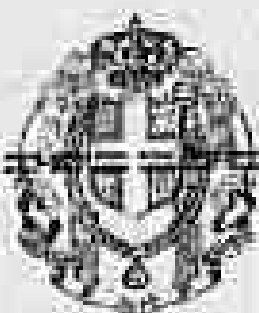
Chie"evo inoltre l'esito dell'autopsia relativo al militare americano lesse J Gaither e della lesione relativa all'ussaro polacco Toif Teofil, entrambi ricoverati nell'ospedale "a Campo militare Alleato n.35 ormai "isciolto.

In "ava l'° c.m. mi si comunica "al (Liaison Office = Bari) "i "i volgermi a vo"esto Ufficio.

Prego rimettermi con cortese sollecitu"ine i chiesti certificati me"ici (almeno in copia autentica) e "isporre su quant'altro richiedo poichè l'imputato è "etenuto "al 1/1/1944 senza che la istruzione possa chiudersi.

Il Giudice Istruttore
= Nicola Massarelli =

N. Massarelli



fm

Mod 40

Roma

21/8/45 11/11 5/1++++

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIOOn. COMMISSIONE ALLEA-
TA - Sottocommissione Lega
le R O M A

Ufficio I A.P.

Prot. N° 23.1.1155/45

Ripresenta del 29.3.945

Per AC N° 129/6.L.

OGGETTO. Omicidio in danno di militari alleati
ad opera di VUCCI Pasquale ed altri.e per conosc.
all'UFFICIO DI COLLEGAMENTO
CABINETTO

Con riferimento a precedente corrispon-
denza si comunica, giusta quanto ha riferito il
Procuratore Generale presso la Corte d'Appello
di Potenza, che la Sezione Istruttoria presso
detta Corte, con sentenza 15 ottobre c.a., su
conforme requisitoria dell'Ufficio di Procura
Generale, ha rinviato tutti gli imputati del de-
litto in oggetto al giudizio della locale Corte
di Assise, davanti alla quale è stato fissato il
dibattimento per l'udienza dell'11 dicembre p.v.

L'esito sarà, a suo tempo, comunicato a
codesta On. Commissione.

d'ordine del MINISTRO

See also 87A ✓ 8 *[Signature]*

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

94A

AC/4129/6/L.

WEB/lc.
5 August 1945.

SUBJECT : Court Martial. - Soldato SAMA N.

TO : HQ 3 District.

1. For your information a copy of a letter sent by the Italian Ministero of War to the Italian Territorial Military Comando of Bari, has been forwarded to this Sub-Commission.

2. The translation is:

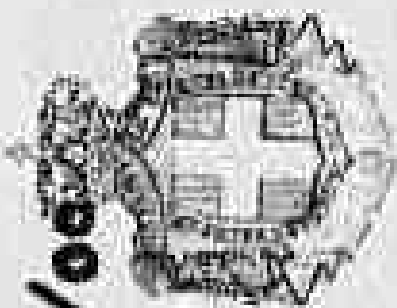
" Herewith a copy of letter AC/4129/6/L. of 26 July from the Legal Sub-Commission of AC.

Please make the necessary provision for the defence of Pte SAMA N. (not further identified) who - as stated in the letter - will be tried by a British Court Martial at HQ 54 Area."

For the Chief Commissioner:

W. E. BEHRENS,
Colonel,
Chief Legal Advisor. 116

TO/CC



Ministero della Guerra

GABINETTO

Divisione

Gen.

Prot. 1377651
18.10.10
Allegato R

OGGETTO

soldato SAMA N. prigioniero di guerra, sottoposto al giudizio di una Corte Marziale Britannica.

Prospetto al foglio del
Dir. 72A

AL COMANDO MILITARE TERRITORIALE DI
e, per conoscenza:

AL COMANDO COMMISSIONE ALLEATA
Sottocommissione Legale

(rif. AC/4129/6/L del 26 luglio 1945)

B A R IR O M A

Si trasmette copia del foglio AC/4129/6/L in data 26 luglio u.s. della Sottocommissione Legale del Comando Commissione Alleata, e si prega di voler provvedere a quanto necessario per la difesa del soldato SAMA N. (non meglio identificato) che - giusta quanto detto nel foglio sopra citato - sarà sottoposto al giudizio di una Corte Marziale Britannica presso il Comando della 54^a Area.

d'ordine

IL CAPO DI GABINETTO

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

92A

AC/4129/6/L

26 July 1945

SUBJECT: Court Martial

TO : Minister of War

NA/T/37430 Soldato SAMA N.

1. The above named Italian soldier is a British prisoner of war who has been working with 1019 Port Maintenance Coy, R.E.

2. This letter is to inform you, in accordance with Article 60 of the Geneva Convention for the Treatment of Prisoners of War that it is proposed to bring Soldato SAMA to trial before a British Court Martial.

3. The relevant particulars are :-

- a) Civil status and rank: Waiter Soldato
b) Place of detention : Bari Town Guard Room

c) Charge :
Committing a civil offence, that is to say, wounding with intent contrary to Section 18 of the Offences against the Person Act, 1861 in that he in the field on 26 March 1945 wounded Lance-corporal E. Power, 510 Provost Company, Corps of Military Police, with intent to do him grievous bodily harm or to disable him.

d) Date and place of trial: 16 August 1945 at HQ 54 Area.

11

A. E. BEARENS,
Colonel,
Chief Legal Advisor.

Copy to H. 3 District:

Please note that although immediate action was taken on your letter (153/80A of 24 Jul 45) the Italian Government cannot in fact have notice of the trial 3 weeks before the proposed opening of the hearing.

INTERNATIONAL ALLIED COMMISSION
APO 592
LEGAL SUB-COMMISSION

AG/1429/6/L.

17 July 1945.

SUBJECT : Consorcio Agrario, Prindisi.
TO : Liaison Officer, BART.

1. Reference your IR/55/49 of 11 July 1945, WP CA Sec has refused the application for the trial of this case by an Allied Military Court.

2. All papers enclosed with your above quoted letter are returned herewith.

Incls.

John F. WEBER, Col. Inf.
Chief Judicial Officer
for Chief Legal Advisor.

117

Legal s/c 9681 (91A)

3 District
Tel Ext 36
155/80A
24 Jul 45

14 Allied Commission.

KA/T/37430 Soldato S.M.A. N.
1019 Fort Maintenance Coy. R.E.

1. It is intended to bring the above named Italian to trial by Military Court.
2. It is therefore requested that the following particulars, being the particulars notifiable to the Protecting Power under Art 60 of the Prisoner of War Convention, may be notified to the Italian Government.
 - (a) Civil status and rank: Waiter. Soldato.
 - (b) Place of detention: Bari Town Guard Room.
 - (c) Charge: Committing a civil offence, that is to say, wounding with intent contrary to Section 18 of the Offences against the Person Act, 1861 in that he in the field on 26 March 1945 wounded lance-corporal E. Pover, 510 Provost Company, Corps of Military Police, with intent to do him grievous bodily harm or to disable him.
 - (d) Date and place of trial : 16 Aug 45 at HQ 54 Area.

Copy to :- 'A' N. Area

R. Rouse
Lt Col Army

410916
 ALLIED COMMISSION
 LIAISON OFFICE
 BARI

(89A)
 Tel.: 14152

July 11, 1945

Subject: Consorzio Agrario, Brindisi.

Ref.: LB/53/49

To: C.L.A., Legal Sub-Commission,
 H.Q. Allied Commission, C.M.F.

The attached papers are forwarded to you
 to see if it is possible that this case be tried
 by an Allied Military Court please.

S. W. Miller

S.W. Miller, Col.
 Allied Commission
 Liaison Officer

Copy to: A.F.M., R.A.F., Bari
 his letter No. AFM/3/20/Air
 dated 3.7.45 refers.

88A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WEB/esp

AC/429/6/L

5 July 1945

SUBJECT : SAMA' Nazzareno

TO : Liaison Officer, BARI

1. Since SAMA' was a POW at the date of the alleged offence he is not, in my opinion, subject to the jurisdiction of an Allied Military Court.

2. I do not know whether SAMA' is now in prison, and still held as a POW or whether he has been released from that status, in accordance with the agreement with the Italian Government, with effect from 1 July 1945.

3. If he is still a POW he can only be tried by a court martial in accordance with the Geneva Convention.

4. If he has been released he can, according to the opinion of the PGMC be tried by the Italian Military Tribunal under Arts 15 and 16 of the GPMG, notwithstanding the apparent absurdity of treating one nation (U.K.) as a State "associated in war" with Italy under Article 15 and as (ex-hypothesi) a nation hostile to Italy under Article 16.

5. The papers are returned herewith.

By command of Rear Admiral STONE:

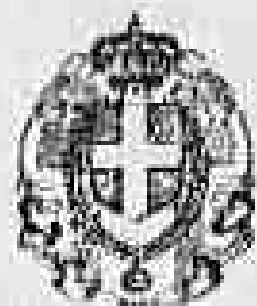
W. E. BEHRENS,
Colonel,
Chief Legal Advisor.

11

Incls.

Taken by list of C.O. whole.

6/5/45



Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Ufficio 1° A.P.
Prot. N° 23.I.II55/1945

Mod. 40
Roma 2 luglio 1945
ALLA COMMISSIONE ALLEATA
Sottocommissione Legale
R O M A

e per notizia
ALL'UFFICIO COLLEGAMENTO

S E D E
Supplemento del 29 Marzo 1945
PC/4129/6/L.V.

OGGETTO = Omicidio in danno di militare alleato
ad opera di VUCCI PASQUALE ed altri =

83A

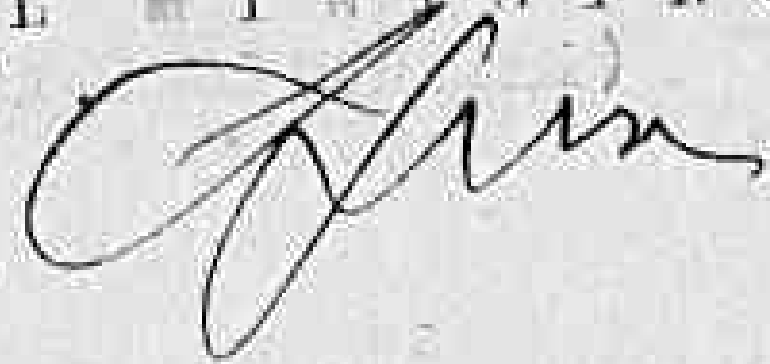
Facendo seguito a precedente corrispondenza si informa codesta On.le. Commissione che il Procuratore Generale di Potenza ha risposto assicurando che l'autorità giudiziaria procede contro Vucci Pasquale ed altre 17 persone di Rionero in Vulture, delle quali 14 già in stato di arresto; imputate di concorso nell'omicidio in persona del militare americano di colore HERMAN ANTONY.-

Il Procuratore Generale di Potenza ha, inoltre, comunicato di aver investito del formale procedimento la Sezione Istruttoria presso la locale Corte di Appello, interessandola per una rapida istruzione.-

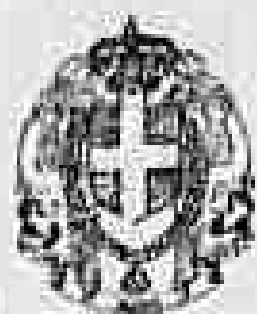
°/.

Si fa riserva di comunicare, a suo
tempo, l'esito del procedimento.

5 ottobre DEL MINISTRO



4 JUL 1945



Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Ufficio 10 A.P.
Prot. N° 23.1.II55/1945

Mod 40
Roma 2 luglio 1945
ALLA COMMISSIONE ALIATA
Sottocommissione Legale
ROMA

e per notizia
ALL'UFFICIO COLLEGAMENTO
S E D E

Risposta al l. del 29 marzo 1945
DC/4129/6/L.N°

Oggetto = Omicidio in danno di militare alleato
ad opera di VUCCI PASQUALE ed altri =

83A

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o/.

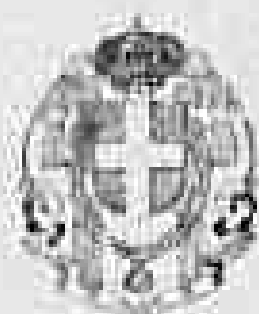
Si fa riserva di comunicare, a suo tempo, l'esito del procedimento.:-

3. ordine DEL MINISTRO

John

4 JUL 1945

fm



4129/6

giugno 1945 A+++

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIOOn. COMMISSIONE ALLEATA
Sottocommissione Legale
ROMAUfficio I° A.F.
Prot. N° 23.1/1155Riposta al f. del 29.5.945
CC/4129/6/LOGGETTO: Casi di rivolta e assassinii a Rionero
del Vulture.

83A

e per conoscenza
All'UFFICIO COLLEGAMENTO
GABINETTO

In relazione alla nota suindicata, si co-
munica che è stato fatto presente al Procuratore
Generale in Potenza quanto è stato segnalato da
codesta On. Commissione.

Si riservano ulteriori informazioni, spe-
cialmente per quanto riguarda l'esito del pro-
cedimento.

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CLO

Chief Counsel

CL RKS

13 July 1945

pel MINISTRO
(A. Spallanzani)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/6/L.

/lrh.
30 May 1945.

SUBJECT : PERNICE Giovanni.

TO : Provincial Commissioner, (Attn: Senior Legal Officer), Naples Commune.

1. Authority has been given for the trial of the above by a Superior Court on a charge of "omicidio colposo" if the Military Authorities so wish. They should be warned, however, that in an Allied Military Court the defence of self defence may very probably lead to the acquittal of the accused and that more success may possibly be obtained in a prosecution in the Italian Courts, and they can bring the case in which ever Court they prefer.

2. There is no evidence against Di Cristo and he should be released if that has not already been done.

3. The police statements are returned herewith.

By command of Rear Admiral STONE:

W. E.

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

1 Incl:
Police statements.

2073

File 4129/6

84A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
NAPLES COMMUNE
LEGAL DIVISION
APO 394

L-3046

21 May 1945

SUBJECT: PERNICE Giovanni and DI CRISTO Giovanni.

TO : HQ., Allied Commission (For Attention
of Legal Sub-Commission)

1. Transmitted herewith for your information
and advise is file reference SIB69/A/45/212/266,
concerning the murder of No.AS.737 Pte PHATE.M.of
203 African Leave Camp.

2. An Allied General Military Court has been
requested by D.A.P.M., 69th Section, S.I.B.

For the Commissioner:

Frank L. Vecchiolla
FRANK L. VECCHIOLLA, *ly bbb*
Major, J.A.G.D.,
Senior Legal Officer.

107

CCB/pv	LEGAL SUBCOMMISSION	
	CLO	
→	DCLO	
	Chief Counsel	
	CJO	
	Italian Section	
	CLERS	
	22 MAY 1945	

83A

HEADQUARTERS ALLIED COMMISSION

LFC 394

LEGAL SUB-COMMISSION

AC/4120/6/L.

/rlp.
25 May 1945.

SUBJECT : Case of riot and murder at Rionero in Vulture.

TO : H.E., the Minister of Pardon and Justice.

1. It is desired to inform Your Excellency of a shameful incident which took place at Rionero in Vulture (Potenza Province) on 8 April 1945.

2. An Allied lorry was being driven near the town where the brakes failed, and the vehicle most unfortunately collided with a religious procession. It is regretted that two Italian children were killed as a result of the accident and four civilians were injured.

3. When the lorry stopped several members of the crowd attacked two American soldiers who were on the truck, neither of whom was the driver or in any way responsible for the accident. One soldier was wounded, but the other was chased by some 17 persons and beaten and knifed to death.

4. While great regret is felt over the vehicle accident, I have read the evidence of the events which followed and can only say that the persons who took part in the chase appear to have been guilty of the most outrageous and criminal behaviour.

5. The incident is being denounced to the authorities at Potenza and I should be grateful if Your Excellency could inform the Procuratore Generale that the Allied authorities are most concerned to ensure that the trial is held as speedily as possible and that those accused who are found guilty are very severely punished.

6. The names of the persons who have so far been arrested are:

VUCCI Pasquale,
CASSETTA Nicola
DI CARLO Antonio
CARLINI Angelo
VERINO Michele
RUSSO Saverio
GALLUCCI Michele
CHIEPPA Aurelio

CHIEPPA Angelo
LAPADULA Francesco
PIASTINO Michele
MARCONI Antonio
CARULLO Pasquale
MOTTOLONE Luigi
BRASOLA Antonio

106

See also 87A and 95A

A. E. BRIDGES,
Colonel,
Deputy Chief Legal Advisor.

821

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

NO/143/6/L.

WBY/nt.
29 May 1945.

SUBJECT : Murder of Pvt Herman Anthony.

TO : HQ. AAF, HCO (Attn: Adjutant General's Office).

1. Reference is made to your 333 of 20 May 1945 concerning the disgraceful incident at Riccione in Vulture.

2. It is fully realized that in many respects it would be desirable to constitute an AMI Court for this case. There are however the following considerations which must be taken into account :

- (a) In any proceedings the Court would have to determine the exact part taken by each of the several accused in order to determine his liability and punishment. Such a proceeding, with the very contradictory statements in the case, would involve a lengthy trial; moreover an Italian Court with its knowledge of Italian character is better equipped to reach a true decision on the facts.
- (b) The preparation and presentation of the prosecution of the case would require much time and considerable skill. The personnel available to this Commission is extremely limited, being daily reduced, and all situated in North Italy.

3. The opinion of an Italian criminal law expert has been taken and he has stated that in a case of this kind an Italian Court would show no mercy and that maximum sentences would be imposed on all persons found guilty.

4. In these circumstances the Vice President, Civil Affairs Section, of this Commission has reluctantly decided that the case should be referred to the Italian Courts. He has however directed that a letter be written to the Minister of Grace and Justice advising him of the case and asking him to ensure, through the Procuratore Generale, that a speedy trial is held and exemplary justice administered.

5. The report of the investigation is returned to you herewith.

For the Chief Commissioner:

Copy to : AG Liaison Officer
 (1 - Your 12/6163/61 of 15
 May 1945 refers
 2 - Your documents returned
 3 - Please arrange for the accused
 to be denounced at Potenza
 forthwith and for the trial
 to be hastened).

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

2076

0-716

429/6

CONFIDENTIAL

Legal (81A)
705

HEADQUARTERS ARMY AIR FORCES
MEDITERRANEAN THEATER OF OPERATIONS
APO 650

PM-RBD-hlc

333.

20 MAY 1945

SUBJECT: Transmittal of Report of Investigation.

TO : Allied Commission, Rome. ATTENTION: Legal Office.

1. Forwarded herewith for your information and necessary action is Report of Investigation CID AAF/MTO #45-1-52.
2. It is requested that this case be tried by Allied Military Court.

FOR THE COMMANDING GENERAL:

HEADQUARTERS
22 MAY 1945
A. C.

C. O. Baird, Jr.
C. O. BAIRD, JR.
Colonel, AGD
Adjutant General
Am

1 Incl: Report of Investigation
CID AAF/MTO #45-1-52, "Vehicular Homicides, Murder, Assault with a Dangerous Weapon, Larceny, and AWOL," dated 10 May 1945.

DOWN GRAD
UNCLASSIFIED

Get into
Sgt. Joseph J. Jones
for Chief Staff Affairs Officer.

10

CLO	
→ DCLO	
Chief Counsel	
22 MAY 1945	

CONFIDENTIAL

4129/60

Q

ALLIED COMMISSION
LIAISON OFFICE
BARI

Temp

(80A)

15 May 1945

Subject: Case of USA lorry involved with civilian procession at Rionero in Vulture, (Potenza Province) on 8 Apr 45 resulting in death of a coloured soldier & certain civilians.

Ref : LB/6163/61

To : C.L.A. Legal Sub Commission, HQ.
Allied Commission.

1. The enclosed evidence, maps etc, in the above case are forwarded to you for early review and decision as to whether this case should be tried by an Allied Military General Court or by the appropriate Italian Court, *please*.
2. Meanwhile, accused concerned are in confinement at the local Italian Prison Bari and will not be denounced pending your decision as to the method of trial.

See 83A, 87A & 95A

18 MAY 1945

S. W. Miller

=====

S.W. MILLER, Lt. Col.

Liaison Officer, AC. Bari.

P.S. I since learn that in the absence of LG TURRO, a copy for you has been sent today thro C.I.D. channels A.F.H.R. and you may wish to contact them before deciding.

SECRET

TO : G.S.O. 2 (I) No. 1 Dist.
 FROM : HQ. AMG. UMBRIA-MARCHE Region
 SUBJECT : S. Elpidio Sabotage Case - Trial of MARCOLINI Amalia
 CAGNANA Adelia
 TACCORI Luca
 ZANCAN Gino

REF : R5/511/16
 DATE : 4 May 1945.

Not received

1. Ref. your 705/5/GSI dated 24 April 45 and subsequent telephone conversation (Major Alexander-Capt. Hutchinson) the position of this matter is now as follows:-

Major Cowell Parker, during his recent visit to Ancona, interviewed 314 F.S. Sec., and it was agreed that further investigations were necessary before bringing above accused to trial. It was decided that it would be impossible to hold the trial on the date originally proposed, i.e. 11 May 45, and Major Alexander subsequently stated to Capt. Hutchinson on the telephone that orders summoning military witnesses for that date should be cancelled.

2. This Regional Headquarters will be disbanded as at 10 May 45, and it is therefore impossible for further arrangements to be made through this channel. One legal Officer will, however, remain in Ancona which town, as you know, will continue to be administered as AMG territory. The writer had an interview yesterday with the Chief legal Adviser at HQ.AC and the latter stated that, should it be desired, after further investigation, to bring above accused before an AMG Court, application for convening such a Court should be made by you direct to HQ.AC, owing to present acute shortage of legal Officers, that Headquarters will be unable to supply more than a President for the Court; who would be an AMG legal Officer at Ancona. It will therefore be necessary for all officers, other than the president, to be supplied by your Headquarters. Their names should be stated in any application for a trial which may be forwarded to HQ.AC. The trial would require to take place in Ancona, which, in any case, is the most suitable venue.

3. It should be pointed out that, in addition to the Prosecutor, 2 Defending Officers will require to be nominated, since the interests of two of the accused seem likely to conflict and they should, therefore, be separately advised. It is usual, too, in General Court Cases involving a probable Death penalty, for one of the members of the Court, in addition to the President, to be a legally qualified Officer.

4. As you are aware, Major Cowell Parker is fully conversant with this case and will be available to advise on future developments.

DOWN FOR REF

FOR THE REGIONAL COMMISSIONER.

10

2. This Regional Headquarters will be disbanded as at 10 May 45, and it is therefore impossible for further arrangements to be made through this channel. One legal Officer will, however, remain in Ancona which town, as you know, will continue to be administered as AMG territory. The writer had an interview yesterday with the Chief legal Adviser at HQ.AC and the latter stated that, should it be desired, after further investigation, to bring above accused before an AMG Court, application for convening such a Court should be made by you direct to HQ.AC, owing to present acute shortage of legal Officers, that Headquarters will be unable to supply more than a President for the Court; who would be an AMG legal Officer at Ancona. It will therefore be necessary for all officers, other than the president, to be supplied by your Headquarters. Their names should be stated in any application for a trial which may be forwarded to HQ.AC. The trial would require to take place in Ancona, which, in any case, is the most suitable venue.

3. It should be pointed out that, in addition to the Prosecutor, 2 De-fending Officers will require to be nominated, since the interests of two of the accused seem likely to conflict and they should, therefore, be separately advised. It is usual, too, in General Court Cases involving a probable Death penalty, for one of the members of the Court, in addition to the President, to be a legally qualified Officer.

4. As you are aware, Major Cowell Parker is fully conversant with this case and will be available to advise on future developments.

DOWN GRADDED TO UNCLASSIFIED

FOR THE REGIONAL COMMISSIONER,

S. Alexander

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

Copies to:- CJA, HQ.AC.
Officer i/c JAG Branch
No. 1 District } for information
P.L.O. Ancona

LEG. (Chief Whip)	
CLO	
DELO	
CHIEF CLERK	
C/O	
Relief	
CL Train	

(78A)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rlp.
5 April 1945.

AG/4185/L.

SUBJECT : Case of CARUSO Eliseo - Counterfeiting.

TO : RAAC.

1. It is regretted that it will not be possible for an Allied Military Court to be convened for the trial of CARUSO Eliseo or the other persons referred to in your 77A of 31 Mar 45.

2. Allied Military Courts can only be convened in Italian Government Territory in very exceptional circumstances and when the offence complained of is directed specifically against the Allied Forces or members thereof.

3. Information concerning this case had been received by this Commission before 29 March and on that date a letter was written to AFHQ which sets out the views of this Commission. A copy of this letter is attached for your information.

4. In the circumstances, will you please arrange for the accused, together with all necessary evidence, to be handed over to the Italian Courts for trial.

5. The documents are returned herewith.

By command of Rear Admiral STONE,

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

Incls; Documents.

Legal File

75A

Ref: AC/4129/6/L

24 March 1945.

SUBJECT: COLACCI Pietro.

TO: Headquarters 15 Air Force, APO 520, U.S. Army.

1. Reference is made to your first endorsement dated 6 March 1945, requesting the trial of the abovenamed Italian civilian by an Allied Military Court.

2. It is the practice of this Commission to refer crimes of the type disclosed by the charges and supporting statements to the Italian Courts in Italian Government Territory.

3. This is in accordance also with the recent policy laid down by the Combined Chiefs of Staff withdrawing Allied Commission personnel from Italian Government Territory.

4. I may add that we have found in the past that the Italian Courts in LECCE, where the case would be tried, have imposed adequate sentences in cases affecting the interests of the Allied Forces and in view of the withdrawal of Allied Commission officers from this area the setting up of an Allied Military Court would be administratively difficult.

5. Unless, therefore, there is some very special reason for desiring the case to be tried before an Allied Military Court, it is requested that you withdraw your application and that the matter be referred to the Italian Courts. For this purpose the papers returned herewith should be handed to the Procuratore del Re at LECCE who should be advised that he may now proceed with the investigation and disposal of the case.

You will note that the Italian Authorities had already begun an investigation into the case but that this was suspended at the request of this Commission.

MILBY W. STONE
Rear Admiral, USNR
Chief Commissioner

101

Prepared by:

Col. E. W. BEHRENS, DOLA, LEGAL Sub-Commission

Cc: Legal S/C
Chief of Staff
"CC" Files

Colonel

RC Santhan Rayan (AM RLD)

Minutes 17-22 refer

4129/6
HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

74A

L-3046

12 March 1945

SUBJECT: Application for General Military Court.

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

1. I am attaching hereto copy of letter this day received from Major Boyd-Carpenter together with the complete files in the case of COLUCCI Pietro. Major Boyd-Carpenter recommends that this case be tried before a General Military Court.

For the Regional Commissioner:

ETK/pv

L.F. Dawson
L.F. DAWSON, *by E.T. Ken*
Lt.Col., G.L., *in p*
Reg.Chief Legal Officer.

9

minutes 19-22 refer

C O P Y

ALLIED COMMISSION
LEGAL OFFICE
BARI

Ref : 6163/O

7 March 45

SUBJECT: Application for General Military Court.

TO : R.L.O., HQs, Southern Region, Allied Commission.

1. Forwarded herewith are the papers in the case of COLUCCI, Pietro di Domenico, together with recommendation by HQs 15th Air Force for a General Military Court.
2. This case was originally dealt with by Capt. A.C.J. German then L.O., A.C., TARANTO who formed the view that having regard to the provocation which existed and to the general circumstances of the case, it was NOT one which he considered made it necessary or proper for him to take the initiative in recommending a General Military Court.
3. He was unaware of the fact that the Assistant Adjutant of this unit concerned was pressing for such a Court, since such application was made to Major Cotes-Preedy who had already left LECCE, and this correspondence finally reached this HQs with your L-5040 of 13/2/45.
4. The matter was then discussed with Provost Marshal 15th Air Force who has throughout been anxious that case should be tried by A. M. Court. It was explained to him that apart altogether from the nature of the case it was thought improbable that HQs Allied Commission would act on the original recommendation, and the papers were sent to him for consideration. As appears they have now been returned with a recommendation for trial by A. M. General Court.
5. As appears from attached file, preliminary work on the case has already been done by the Italian authorities. Having regard both to the considerations which originally influenced Captain

3. He was unaware of the fact that the unit concerned was pressing for such a Court, since such application was made to Major Cotes-Preedy who had already left LECCE, and this correspondence finally reached this HQs with your L-5040 of 13/2/45.

4. The matter was then discussed with Provost Marshal 15th Air Force who has throughout been anxious that case should be tried by A. M. Court. It was explained to him that apart altogether from the nature of the case it was thought improbable that HQs Allied Commission would act on the original recommendation, and the papers were sent to him for consideration. As appears they have now been returned with a recommendation for trial by A. M. General Court.

5. As appears from attached file, preliminary work on the case has already been done by the Italian authorities. Having regard both to the considerations which originally influenced Captain Germain, to the fact that it is understood that by the time this case could be approved there will be a shortage of Legal Officers in the area, and to fact that case would presumably have to be tried at LECCE thus causing many practical difficulties, this HQs does NOT in any way press for a Military Court as this case. As, however, it is strongly desired by HQs 15th Air Force it is thought proper to submit case to you.

(signed)

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

JABC:ct

C O P Y

CONFIDENTIAL

74C

230

1st Ind

QC-FES-dfp

HEADQUARTERS FIFTEENTH AIR FORCE, APO 520, U. S. Army, 6 MAR 1945

TO: Legal Officer, Allied Commission, Bari Province, APO 540, U. S. Army.

It is requested that subject Italian civilian be tried by an Allied Military General Court. The seriousness of the charges set forth in the Allied Commission Form J 1 a, namely, the murder of a soldier of the United States Army and the assault with intent to murder a soldier of the Polish Army, justifies the trial by such court.

FOR THE COMMANDING GENERAL:

Peter Kardassakis
PETER KARDASSAKIS

1st Lt. Air Corps

Asst Adjutant General

1 Incl:

Incl 1 - AC Form J 1 a,
(w related papers).

DOWN GRADED
TO
UNCLASSIFIED

Copy for
Chief of Staff
for Chief of Staff Officer.

97

CONFIDENTIAL

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

eap/

73A

AC/4129/6/L

21 March 1945

SUBJECT : Case of IANNANTUONI, Pietro

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

1. Reference your L - 3046 of 16 March 1945, VP CA Sec has refused the application of the LO Bari for the trial of this case by an Allied Military Court.

2. All papers enclosed with your above quoted letter are returned herewith.

By Command of Rear Admiral STONE:

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

Incls.

See White 16

3. 91

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394

72A

I - 3045

16 March 1945

SUBJECT: Case of IANNANTUONI, Pietro.

TO : C.L.A. - Allied Commission Headquarters - C.M.F.

1. I forward herewith the complete papers in connection with the above mentioned case which arises out of the stripping of a crash-landed aircraft in what used to be the Foggia Zone.

2. Here again I make the same remarks as I have made in the case of BENEDETTI, MARCHETTI and others, and it accordingly seems to me that in the implementation of the policy of higher authority the application of the Commanding Colonel should be refused.

3. This case would normally have been proper and suitable for trial by the Circuit Superior Military Court which had earlier been established in the Bari Zone, and had the Permanent Military Courts there, still been in existence, I would have recommended the trial of this case by the said Circuit Superior Military Court.

4. However, all these Courts have been abolished and the Legal personnel of the entire Region already ^{has been} ~~soon~~ substantially reduced and is still in process of liquidation. An immediate start must be made upon giving effect to policy and, accordingly, I again find myself unable to recommend that the present application be acceded to. 9.

5. Major Boyd-Carpenter, himself, I understand, is to leave Bari within the course of the next few days and I suppose it will not be long before Capt. Christians and Lt. Balboni are likewise removed.

6. It does not seem to me, therefore, to be advisable to encourage the military authorities in the belief that one ^{Legal} Liaison Officer stationed in Bari could possibly try the cases that they would wish to have dealt with by an Allied Military Court.

7. As I understand the policy there is to be little or no interference by the Allied Officers remaining in this Region with the Italian Government and its officials.

8. According^{to} ~~the~~ Aide Memoire~~s~~, dated 24 February 1945, para 5, such Legal Officers as remain~~ed~~ here will be confined to advisory functions only and these functions they will discharge even then on the request of the Italian Government. It seems to me accordingly that on grounds of policy the application in this case should also be refused.

For the Regional Commissioner:

L. F. Dawson

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

LFD/jc

Incl. Set of papers.

LEGAL SUBCOMMISSION	
CLO	1
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
15 MAR 1945	

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

eap/

71A

21 March 1945

AC/4129/6/L

SUBJECT : Case of BENEDETTI, MARCHETTI and others

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

1. Reference your L - 3046 of 16 March 1945, VP CA Sec has refused the application of CO, HQ Adriatic Depot, US Army, for the trial of this case by an Allied Military Court.

2. All papers enclosed with your above quoted letter are returned herewith.

By Command of Rear Admiral STONE:

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

Incls.

70A

H/29/6. file
HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394

L-3046

16 March 1945

SUBJECT: Case of BENEDETTI, MARCHETTI and others.

TO : C.L.A. - Allied Commission Headquarters - C.M.F.

1. I forward herewith the complete papers in connection with the above mentioned case. As you will observe from the investigation, 1,675 field jackets, valued at \$23,567.25, the property of the United States Army, were stolen from a railway truck on 23 January 1945, and an application is now made for trial of this case by an Allied General Military Court.

2. From another letter in a further case which I am submitting to you under separate cover, signed by Colonel D. S. Campbell, Commanding the Air Corps in Foggia, you will observe that this officer has little confidence in the capacity of the Italian Courts in his area to deal adequately with a case of this kind. (See papers in case against IANNANTUONI, Pietro and others).

3. As you will be aware from my own reports on the activity of the Italian Courts in what used to be the Foggia Zone, they have, in my opinion, always been unsatisfactory and I accordingly substantially agree with Colonel Campbell's views, in the matter.

4. Continual pressure, including that latterly brought to bear upon these Courts by Major Lupton, has brought about a slight improvement in their work, but the spark of that improvement would normally have required nurturing over a considerable period of time before it could have been fanned into some kind of flame.

5. However all this may be, the Foggia Zone has now been completely abolished and I suppose that the time has arrived when the protection of military interests must be left to a larger extent than ever before in the hands of the Italian Government and its Courts.

6. With a greatly reduced law establishment in what was at one time Southern Region, it is not, it seems to me, feasible any longer to respond to the demands of the various service authorities and, accordingly, as the policy of higher authority must be given effect to with as little delay as possible, I apprehend that this object will not be achieved by conceding what may, in fact, be, on the face of them, the legitimate demands of the various Commanding Officers.

7. It seems to me, accordingly, that this case should be handed over to the Italian Courts for disposal.

For the Regional Commissioner:

L. F. Dawson

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

Incl. Set of papers.

LEGAL SUB-COMMISSION	
CLO	/
DCLO	←
Ch of Council	
CLO	
Italian Section	
CL RKS	
18 MAR 1945	

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

69A

AC/4129/6/L.

/mt.
14 March 1945.

SUBJECT : Incidents between Italian and Canadian soldiers.

TO : Procurettore Generale Militare,
Via degli Acquasparta n. 2 - ROME.

1. This Commission is much obliged to you for your letter No. 504/SL of 1 March 1945.

2. In view of all the circumstances, this Commission does not wish to take jurisdiction in this case: it is, of course, open to you to take such proceedings as you may think fit against Cap. MAGG. BARBERIO Italo.

3. I return herewith the report enclosed in your letter in case it may be of use to you.

C

Incl. 1 report.

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

2093

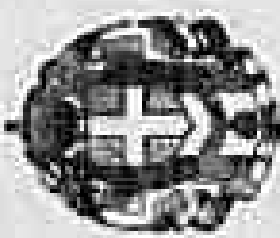
785016

NO
Report from CCRR Roma Station.

Arrest of an Italian corporal charged of
having threatened 2 Allied soldiers
~~xxxx~~ with a hand grenade.

Copy is sent to this S/C in case ~~xxxx~~
trial should be heard before an AM Court.

89



Procura Militare del Re Imperatore REGNO

PRESSO IL

TRIBUNALE MILITARE TERRITORIALE DI GUERRA

DI

ROMA

ALLA COMMISSIONE ALLEATA

SOTTO COMMISSIONE LEGALE

R O M A

Via Veneto

STAMPERIA REALE DI ROMA

Prot. N. 504/SL Allegati /.

Risp. al f° N.

del

OGGETTO: Incidente tra militari italiani e militari cecoslovacchi.

Si trasmette l'unita copia di verbale relativa ad un incidente avvenuto tra militari italiani e cecoslovacchi.

Poichè il reato commesso dal Cap. Megg. Darberio Italo ha offeso militari alleati, sia pure sconosciuti, se ne riferisce a codesta Commissione per l'eventuale esercizio della facoltà di avocare ad una Corte Militare Alleata il giudizio su fatto.

IL PROCURATORE MILITARE
(A. Bellini)

fin 41296

cr/βelu 3

8U

1943XXXXXXIX

1/3/1945

Roma,

68A

41296

2095

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

785016

412/6 INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: CITE RAG-202

Date/Time of Origin: FEB 26

Message Centre No: D/3390

Date Time Rec'd: FEB 252000A

Precedence: ROUTINE

FROM: ALCOM SICILIA (CARR)

TO: HQ ALCOM FOR LEGAL SC

RESTRICTED

RESTRICTED

1. Reference telephone conversation today confirm no cases this Region for Allied courts.
2. Possible cases in my January report have not materialized.

ACTIONDist

Action - Legal
 Info - A/President
 Chief Commissioner
 CA Sec
 File (2)
 Float

LEGAL SUB-COMMISSIO	
CLO	☒
LCLO	☒
Chief Counsel	☐
CJO	☐
Italian Section	☐
CL RKS	☐
27 FEB 1945	

CA sec to copy

87

RESTRICTED

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

66A
/rlp.
20 February 1945.

AO/4129/6/L.

SUBJECT : Case of DORIA Antonio et al.

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

1. VP. CA Sec has refused the application of 52 Area for an AM Court to try this case.

2. The papers are returned herewith.

By command of Rear Admiral STONE:

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

Incls.

See Minutes 13 + 14.

85

4129/6 ✓

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394

(65A)

L - 3090

16 February 1945

SUBJECT: Case of DORIA Antonio and numerous others.

TO : C.L.A. - Allied Commission Headquarters, CMF.

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

2. You will observe that an application has been made for trial of this case by an Allied Military Court.

3. The reasons for the application as set forth in the letter from the Commander 52 Area, do not appear to me to be particularly convincing.

4. It is not even clear from the papers whether the deceased was, in fact, a soldier in the Greek Armed Forces. His actual status is nebulous and he appears to have been at least as accomplished a scoundrel as the Italian rogues with whom he got himself mixed up, and who he seems to have been quite deliberately plotting to swindle.

5. The whole case appears to be one in which two gangs of rogues were pitting their wits against one another, and in which the Italian gang was able eventually to frustrate the schemes of the ~~foreign~~ gang.

6. In the circumstances and in view of the drastic changes which are now taking place in the administration of this Region, I can see no reason why the time of an Allied Military Court should be wasted upon the trial of such a case as this. It seems to me to be a matter which might well be handed over to the Italian Courts for disposal, and I shall accordingly be glad if you will authorize me to so instruct the Allied Commission representative in Bari.

8.

7. Please return all the attached papers with your reply.

For the Regional Commissioner:

L. F. Dawson

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

LFD/jc

Incl. Complete file.

Copy to: IO - Apulia and Calabria, Allied Commission,
at BARI.

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CLO	
Legal Section	
CL RKS	
18 FEB 1945	

HEADQUARTERS ALLIED COMMISSION
APC 334
CIVIL AFFAIRS SECTION

62A

AC/4129/L.

WEB/ap.
13 February 1945.

SUBJECT : Forgery of AM Lire notes.

TO : AFHQ, G - 5 Section.

1. It is understood that in the course of a telephone conversation (Major Anderson - Lt. Col. Hannaford) you asked to be advised whether it would be possible to establish in Italian Government Territory Allied Military Courts for the trial of persons charged with counterfeiting Allied lire currency and similar offences.

2. Under Italian law currency offences of this nature are severely penalized and in fact the Italian Courts always take a very serious view of these offences. Furthermore any counterfeiting or dealing in false currency is far more injurious to the Italian Government than to the Allied war effort. It is to be presumed that if the Allies do ever decide to give credit for genuine AM Lire which have been issued this credit will not be extended to spurious notes.

3. For these reasons it is not considered either necessary or desirable to hold Allied Military Courts for the trial of such cases and in the absence of any special circumstances such trials will not be authorized. Where special circumstances do exist in any particular case and a trial by Allied Military Court is strongly desired the request for such Court should be made in the normal way with all necessary evidence and particulars. 8:

For the Chief Commissioner.

See Minutes 10, 11, 12

G. E. Upjohn
G. E. UPJOHN, Brig.
VP CA Sec
Dep CDS AC

Copy to : AC/4129/6/L.

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

63A

AG/4129/6/L

/mt.
29 January 1945.

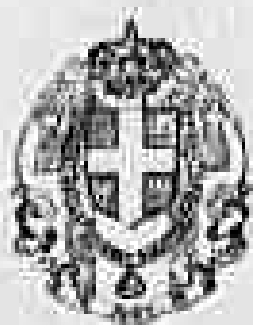
SUBJECT : CARBONE Filippo.

TO : H. E. the Minister of Pardon and Justice.

1. Returned herewith is the petition by CARBONE Filippo asking that his case shall be tried before an Allied Military Court.

2. This case is not within the jurisdiction of the Allied Military Courts.

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



4124/6 20 (62A) Mod 40
Roma, 20 gennaio 1945

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

ALLA COMMISSIONE ALLEATA

ALL'UFFICIO LEGALE ROMA

e per conoscenza all'Uff.

Collegamento S E I E

Ufficio I°
Tel. N° 89-49-1631

Regista al f. del
Dir. Dir. N°

OGGETTO: Istanza del detenuto giudicabile CARBONE
Filippo - Carceri Giudiziarie di Messina.

All. 1

Per competenza, si trasmette l'unita istanza del detenuto CARBONE Filippo, senza data, pervenuta dalla Direzione del Carcere Giudiziario di Messina, con la quale l'istante chiedeva a codesta Commissione Alleata di voler disporre che la cognizione del procedimento, a lui relativa per l'omicidio in persona del "gerarca" fascista GIANNETTO Giuseppe, sia devoluta all'autorità giudiziaria presso le Truppe Alleate.

per il MINISTRO
(A. Spallanzani)

file

Spallanzani

8

File

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

61A

AC/4129/6/L

/mt.
11 January 1945.

SUBJECT : Case of VIELLE Antonio and others.
TO : Regional Commissioner (Attn: Regional Legal Officer),
SOUTHERN Region.

1. Reference your L-3046 of 9 Jan. 45 the papers in these cases are returned herewith.

2. It is agreed that these cases may be handled by the Italian Courts.

By command of Rear Admiral STONE:

N.R.

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

Incls.

8

4129/6 file

60A

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394

L - 3046

9 January 1945

SUBJECT: Case against: (A) VIELE Antonio di Nicola
(B) VIELE Vincenzo di Nicola
(C) IZZO Alberto di Biagio
(D) CROCE Cesare fu Pasquale
All of MONTESARCHIO

TO : Chief Legal Advisor, Allied Commission Headquarters, CMF

1. I forward herewith all the relevant papers in the above mentioned case.

2. The offense was committed in Italian Government territory and the victim, No. B/73726 Pte. HEWETT, R.B.S., was a soldier in the 48th Highlanders of Canada, Royal Canadian Army.

3. I particularly invite your attention to the second paragraph on page three of the covering report by the Investigating Corporal. From the information contained in this paragraph, it is clear that the deceased had been struck off the strength of his unit on 26 October 1944 as a deserter.

4. In view of this fact, I am doubtful as to whether even in AMG territory I could have brought the accused to trial on a charge of contravening Article I, Section 16, of Proclamation Number Two. It might, of course, be argued in the resolution of this doubt, that a deserter still remains subject to military law and that when captured he can be tried by a court martial and on conviction heavily punished, and that therefore in this sense even a deserter is still a member of the Allied Forces. 7!!

5. However this may be, I am not sure whether I am entitled under terms of Article Three of the Consolidated Instructions to ask you for authority to convene an Allied General Military Court to try this case.

6. The deceased was clearly a deserter and had been so for some considerable time before he met his death. He had in addition on the day in question become intoxicated and aggressive and had started handing out challenges by means of gestures of his fists to all persons in the café to fight him. As no one appeared particularly anxious to accept the deceased's challenge, he appears to have then proceeded to force a fight upon a man named CROCE who had in fact desired to leave the café. As a result he was stabbed as described in the medical report and died shortly afterwards.

7. I invite your attention to the penultimate paragraph of the Investigating Corporal's report in which a high tribute is paid to the assistance given the military investigating authorities by the Maresciallo of CCRR. I also invite your attention particularly to the impartial report of the Maresciallo himself.

8. In all ^{the} circumstances of this case and having particular regard to Article three of the Consolidated Instructions, I do not feel justified in asking you to authorize me to displace the jurisdiction of the ordinary Italian courts by the convening of an Allied General Military Court but I nevertheless conceive it to be my duty to submit the papers to you for decision.

9. The present case does seem to me to be one which we would have every justification for leaving in the hands of the ordinary courts of the country.

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

LFD/jc

Incl: File

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Relation Section	
CLERKS	
10 JAN 1945	

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

✓
AG/4129/6/L.

/mt.
10 December 1944.

SUBJECT : Request for General Military Court, PAPARELLA Angelo.
TO : Regional Commissioner (Attn: Regional Legal Officer)
SOUTHERN Region.

1. Reference your L. 3046 of 8 December 1944.
2. In the absence of Brigadier Upjohn, we suggested to you in ours of 7 December 1944 AG/4129/6/L. for the reasons therein set forth that the case of CARACOLA Pasquale be referred to your standing superior court in Bari for trial on the charge of double aggravated theft.
3. We are of the same mind with respect to the case of PAPARELLA Angelo and for the same reasons.
4. We cannot believe that a general court should be convened in this type of case unless the evidence clearly indicates a direct intent to commit sabotage as such. If a contrary view were taken it would be necessary to refer substantially all cases of this character to general courts for trial since all involve "dolo eventuale" in the sense that the accused must be deemed to have foreseen and therefore accepted the resulting damage to the ammunition which the theft involved.
5. This case involves the garden variety of theft. No direct intent to commit sabotage is indicated. We cannot conceive that any court should or would award more than 10 years for the offense.
6. Under these circumstances we find no justification for the appointment of a general court and shall so strongly represent to Brig. Upjohn if it is your desire that the matter be referred to him upon his return to this station. In that event kindly return all documents for his review and decision.
7. Documents returned herewith.

By command of Commodore STONE:

Copy to: AG/4129/11/L.

77
W. E. BEIDENS,
Colonel,
Deputy Chief Legal Advisor.

file

HEADQUARTERS A LIND COMMISSION
AIO 394
LEGAL SUB-COMMISSION

55A

✓
AC/4129/6/L.

/r.

10 Dec. 1944.

SUBJECT : Request for General Military Court,
BORRONE Luigi.

TO : Regional Commissioner (attn. R.A.D.),
Southern region.

1. Reference yours M-9437 of 8 December 1944.
2. For the reasons fully set forth in ours of 10 December a copy of which is attached hereto we cannot concur in the suggestion that this case be referred to a General Military Court for trial. Indeed this case is dissimilar to the case of *PAKKEA* Angelo only in that in this case there would appear to be some doubt whether the evidence would support even a charge of theft.
3. If you desire this matter referred to Brig. *MAJOR* upon his return to this station kindly return all documents.
4. Documents enclosed herewith.

By command of Commodore *STONE*:

J.E. DENREWS,
Colonel,
Deputy Chief Legal Advisor.

Incl: ~~Copy~~ AC/4129/6/L.
of 1 December.
Copy to AC/4129/11/L.

54A

✓
4129/6

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

L-9407 F

8 December 1944

SUBJECT: Request for General Military Court,
MORRONE Luigi.

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

1. Attached hereto is complete report of
investigation in the case of MORRONE Luigi.

2. I am in receipt of a letter from Major
Carpenter requesting that this case be tried
before a General Military Court. Request has
already been made for the trial of another case
before a General Military Court in the same
locality, and as suggested by Major Carpenter
in paragraph 5 of his letter, this case could be
tried before the same Court.

Not
attached

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	✓
CJO	
Italian Section	
CL RKS	
ETK/pv	
DEC 1944	

For the Regional Commissioner:

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

By E. T. Fern

4129/6

53A

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

L-3046

8 December 1944

SUBJECT: Request for General Military Court,
PAPARELLA Angelo.

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

1. Attached hereto is the complete file in the case of the above subject. Major Boyd-Carpenter requests that said case be tried before a General Military Court. It is also requested that this case be tried before the same General Military Court as the one appointed for the trial of CERASOLA Pasquale and MORRONE Luigi, in the event the Legal Sub-Commission authorizes the trial of the above cases before a General Military Court.

NOT
authorized

For the Regional Commissioner;

LEGAL SUB-COMMISSION	
CLO	
DELO	
Chief Counsel	
CJO	
EPK/pv	
Italian Section	
CL RKS	
DEC 1944	

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

50A

HEADQUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

AC/4129/6/L.

21 Nov 44.
21 Nov 44.

SUBJECT : Request for authority to try cases before an Allied Military Court.

TO : Regional Commissioner, LAZIO-EMERIA Region
(Attn: Regional Legal Officer).

1. Reference yours 26 November 1944 (1/1017).
2. Executive Memorandum No. 72, 28 July 1944 Para 3 C requires that recommendation for the setting up of Allied Military Courts in Italian Government Territory be made by the R.C. concerned after discussion with his RLO.
3. The recommendation herein comes only from the arresting authorities and the prosecutor.
4. On the basis of the very meagre facts submitted we would doubt that any of the cases come within the directive that "only in the most exceptional circumstances will any cases in Italian Government Territory be referred to Allied Military Courts".
5. If after discussion with you the R.C. is of a contrary opinion, his recommendation should be accompanied with detailed reasons, your advice and opinion (Executive Memo No. 72) and the facts and particulars required by paras 3b and 4 of Article 3 of Consolidated Instructions for Allied Military Courts.

By Command of Commanders STONE :

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

file.
4/29/6

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

(49A)

Ref: AC/4005/L.

Tel: 608

SUBJECT: Case of SECRETO and others.

25 Nov 44.

TO: DCOS, Establishments Section.

- 1 I have considered this case and on the facts before me (see especially letter dated 23 Nov 44 from Legal Sub-Commission) I am not prepared to authorize a trial before an Allied Military Court.
- 2 It will be referred to the Italian Courts in the normal course.

FOR THE CHIEF COMMISSIONER.

G. R. Upjohn
G.R. UPJOHN, Brig.
VP CA Section
ECOS AC.

Copy to: Legal S/C.

(1899)

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

L/1017

24 NOVEMBER 1944

SUBJECT : Request for authority to try cases before an
Allied Military Court

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

1. The above is transmitted herewith for your consideration and the necessary action in connection therewith.

2. Should more specific facts be required in respect of any of the cases referred to therein I will see that they are promptly furnished.

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

ENCLOSURE :
Letter from 1st Lt. L.A. SABATINO

RCH/GG.

LEGAL SUB COMMISSIO	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
26 NOV 1944	

72

2112

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO UMBRIA REGION LEGAL DIVISION
APO 394

488

4129/6.

21 November 1944

SUBJECT: Request for authority to try cases before an Allied Military Government Court.

TO : Maj.R.C.Hendrickson, R.L.O.,Lazio Umbria Region, Allied Commission.

1. The following cases have been recommended for trial before an A.M.G. Court by the respective arresting authorities involved. Authority to proceed accordingly is requested.

A. Case of Stefano et al.

This case was developed by R.A.F.Police involving purchase of British Military clothing approximately 150 items from an R.A.F. corporal, for re-sale on black market. The financier in this case was a clergyman. Accused were arrested on Nov.7-1944.

B. Case of Albanese et al.

This case was developed by Italian Questura and submitted by Questore himself. The case involves a vehicle circulation permit purported to have been issued by the American Embassy and 40,000 liras paid therefor. Accused were arrested on or about 1 October 1944.

C. Case of Dolci et al.

This is a C.I.D. case. Involving the possession of 30, 150 lb. sacks of Australian flour alleged to have been purchased from an Allied soldier at Civitavecchia. Accused were arrested on 7 September 1944.

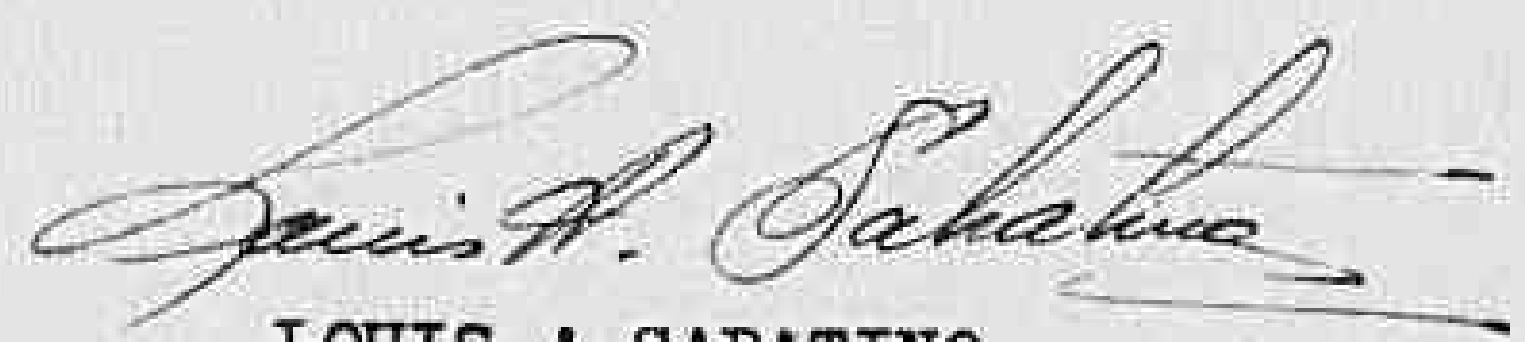
D. Case of Luconi.

This is an old case which started in August 1944 in Sigillo, concerning a motor permit purporting to have been issued by A.M.G. in Rome. The travellers were all arrested, tried and convicted by A.M.G. in Perugia. The alleged maker of the permit has now been found and his prosecution has been requested by the C.G. of

./..

2113

8th Army area. The accused is in Rome but not in custody.
2. It is felt by the undersigned that all of these cases are cases in which there is an Allied interest and that an A.M.G. Court should dispose of them.



LOUIS A. SABATINO
1st Lt. F.A.
Prosecutor, General and
Superior Military Courts.

HEADQUARTERS ALLIED COMMISSION
 APO 374
 LEGAL SUB-COMMISSION

#5 A
 47

AC/4095/L.

/rlp.
 23 November 1944.

SUBJECT : Case of SARETIC and others.

TO : CA Sec.

1. It is recommended that these cases be referred to the Italian Courts for trial.

2. The cases arise out of the sales to members of the Italian police of alcohol transportation permits issued by "AMG Region IV" during August ^{public} September 1944 and signed by Major Garrett.

3. The case has been fully investigated by Major Hildebrand in order to discover whether Major Garrett or any other Allied officer or soldier was involved in the sales and Major Hildebrand is satisfied that Major Garrett may have been negligent but was no party to any fraudulent dealing. There was no other member of the Allied Forces involved. There is no reason on this ground therefore why the case should not be referred to the Italian Courts.

4. There is no doubt that one accused, GOLDWARE, should be convicted in any court. On the evidence contained in the accompanying documents, the two other accused will probably be convicted in an Italian Court but are likely to be acquitted in an AMG Court.

5. AEO, Region LAZIO-UMBRIA agrees with the opinions and recommendations expressed above and the AC is satisfied for the case to be handled by the Italian Courts.

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

File

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/6/L.

(46A)
/rlp.
24 November 1944.

SUBJECT : Case of SEGRETO Alessandro.

TO : Public Safety S/C (Attn: Col. Chapman).

1. Reference yours of 23 Nov 44.
2. Before receipt of your letter I recommended trial by Italian Courts.
3. There are many reasons for this with which I need not bother you.
4. If this man needs hospitalization, I recommend that the necessary action be taken, and it would appear that orders to this effect should come through you.

(also does sent)

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

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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

(45A)

AO/4129/6/L..

WBB/ap.

16 November 1944.

SUBJECT : Case of GIONTA Giuseppe.

TO : Regional Commissioner, Lazio-Umbria Region.

1. I have considered your R/2622 of 13 November 1944 but I regret that the acts committed by GIONTA Giuseppe as disclosed by your letter cannot, in my opinion, be said to amount to an act hostile to the Allied Forces. The case does not appear to affect the interests of the Allies.

2. In the circumstances there is no authority under the Terms of Restoration for the convening of an Allied Military Court and I must therefore refuse the application. The case must be referred to the Italian courts for trial.

3. The strong element of provocation in the case, to which you draw attention, makes it the more desirable, in my opinion, that the case should be tried by Italian judges who are in a better position to appraise the facts and apply the correct law.

4. On the general question, to which you refer in your letter, of the handling in Allied Military Courts of cases which result from the activities of Agents Provocateurs, I do not feel that the existing rule can properly be relaxed. The matter was most carefully considered by the Legal Sub-Commission at the time when I was myself Chief Legal Officer and the rule was framed in its present form. I am advised by the Deputy Chief Legal Advisor, in the absence of Colonel Wilmer, that he does not recommend any modification of the rule.

By Command of Commodore STONE:

67

G. R. Upjohn
G. R. UPJOHN, Brigadier,
VF CA Sec
Dep COS

4129/6
HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION
A.P.O. 394

441

R/2622

13 November 1944

SUBJECT : GIONTA Giuseppe fu Salvatore.

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

1. Charges are now pending against the above named for accepting 800.000= Lire to use his acquaintances among Officials of the COGENA, Naples, for the purpose of obtaining a permit to charter a schooner and transport Marsala and Vermouth from Sicily to Anzio.

2. As a result of certain incidents and activities, which have occurred recently, nasty rumours are abroad as to the manner in which certain permits relating to the storage, transport and sale of liqueurs have been obtained, with resulting suspicion and dissatisfaction in many quarters. Accordingly it follows that since COGENA is effected the matter becomes extremely important, on a national level.

3. Under the circumstances this matter seems to call for immediate action and it is the consensus of opinion at this Headquarters that the desired results can best be attained if an Allied Military Court is established with authorization to dispose of this case forthwith.

4. Briefly the facts of the case are as follows:

66

" On the 30 September, 1944, at Rome , Giuseppe Gionta, a mercantile shipping agent, agreed with Luigi Loreti to obtain from COGENA at Naples a permit for the use of a schooner for the transportation of 100 tons of Marsala and Vermouth from Sicily to Anzio. Loreti paid Gionta 800.000 Lire, which included "my (Gionta) appointments and also a remarkable percentage for the manager or any other Official of the COGENA Naples, and or other members of COGENA in regard to the issuing of the permit", and in addition Loreti was later to pay 300.000.= Lire to COGENA for freight charges and 400.000=

Following the payment of the said 800.000,- Lire by Loreti to Gionta, the former left Gionta and the latter was immediately placed under arrest by Maresciallo Alarico Ricci. Loreti is a Maresciallo Maggiore of the CC.RR. working in civilian clothes on the above date and in fact had no Marsala or Vermouth to be transported from Sicily".

5. It is quite clear from the foregoing facts that the prosecution in the trial of the case must necessarily depend upon Maresciallo Loreti as Agent Provocateur for its proof.

6. This raises a question which frequently has been the concern of a number of our Allied Military Court Judges and Prosecutors. In the light of the language of article 24 of the consolidated instructions it is but natural that this should be so. The result, however, is sometimes unfortunate for past experience has too often disclosed that an accused has been found not guilty, solely because the evidence against him was given by an "Agent Provocateur" and the Judge, confronted by the language of article 24, felt obliged to acquit the accused.

7. Although I hold no brief for the employment of "Agents Provocateur", generally there is always the exceptional case where substantial justice cannot be attained through any other device, thus it would seem that the language of article 24 should be modified to give the Trial Judge a little more discretion over the individual case.

8. Because of the importance of this case and the effect which its successful prosecution would have on the public generally, I have given considerable thought to a number of the legal aspects, not only of this case but of other important issues which have been tried in this region, and I feel very strongly that if Allied interest cases are to be successfully concluded with resulting advantage to the Allies, our Courts should be given broader authority in certain instances both under the proclamations and the consolidated instructions. To be specific for the moment I refer to certain difficulties in the prosecution of one or more important sabotage cases because of the inadequacy of the language of the proclamations and also to the confining effect of article 24. 6.

9. Quite obviously the primary purpose of this communication is to point out the need for the establishment of a General Military Court to conduct the trial of this particular case. However.

I cannot resist such an appropriate opportunity to point out possible weaknesses in our legal structure, which have suggested themselves in the course of my consideration of the immediate problem. Naturally my observations are offered entirely in a spirit of constructive criticism with the hope that they will be of some practical value.

10. In the light of the circumstances will you give this matter your immediate consideration and advise me at your earliest convenience what steps you would like me to take to aid you in the strengthening of the Allied Commissioner's position, both in the present and future cases of this and other similar categories.

Charles Poletti
CHARLES POLETTI
Colonel, A.U.S.,
Regional Commissioner.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

15 NOV 1944

HEADQUARTERS ALLIED COMMISSION

APO 394

Civil Affairs Section

WEB/mt

5 Nov. 44

AG/4129/6yL.

SUBJECT: Case of INSABATA Antonio.

TO: Regional Commissioner SOUTHERN Region.
(Attention Regional Legal Officer).

1. In view of the remarks contained in your letter of 3 Nov. 1944, I am not prepared to authorize trial by Allied Military Court in this case.

2. The case must be entrusted to the Italian authorities who are already engaged in the instruction of it.

3. The file is returned herewith.

By command of Commodore STONE:

G.R. UPJOHN, Brigadier,
VP CA Sec
Dep 309

60

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

4129/6 ✓
3 November 1944.

SUBJECT : Case of Insalata Antonio.
TO : Col. W.E. Behrens,
Deputy Chief Legal Officer,
Legal Sub-Commission, A.C.

- 40A.
1. Reference your letter 30 October 1944, AC/4129/6/L.
 2. I am not informed why this case has been so long delayed. We accidentally discovered this case and two others, involving French witnesses, on 22 September 1944 in a group of documents left by the previous General Court Prosecutor, Lt. Sebastino. Immediate attempts were made to obtain the attendance of the French witnesses in all the above cases. After several attempts we finally received a letter on 18 October 1944 from the French Military Commandant in Italy advising us that personal attendance of the witnesses could not be arranged but that depositions could be obtained after a long delay. In our opinion the latter suggestion was of no value.
 3. I have not been advised that any military authorities have requested this trial.
 4. No statements signed by the accused or by any witness have been made available to us. We were advised by the French Provost Marshall that such documents, if any, would have accompanied the French Units when they left for France.
 5. We quite agree that under present circumstances it will be extremely difficult, if not impossible, to establish a prima facie case. A previous attempt in a similar case resulted in dismissal of the case after the prosecution rested.



For the Regional Commissioner :

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

FEDERAL BUREAU OF INVESTIGATION	
REPORT OF	DATE
BY	FILE NO.
TITLE	CHARACTER OF CASE
SUBJECT	
SECTION	
INITIALS	
DATE	
4 NOV 1944	

6

(41A)

HEADQUARTERS ALLIED COMMISSION
APO 394.
LEGAL SUB-COMMISSION

AC/4129/6/L.

30 October 1944.

SUBJECT: Case of IMBALATA Antonio.

TO: Regional Commissioner, Southern Region.
Attention Regional Legal Officer.

1. Before I submit to the Vice President of the Civil Affairs Section the above case, referred to in your letter of 23 Oct 44, for decision as to whether authority shall be given for a General Military Court I shall be glad of information on the points set out below.

2. The alleged offence was committed on 7 May 44. Why has there been this delay in making this application? Has the accused been detained in prison until this date and where is he, so detained?

3. Are any of the French witnesses available for the proposed trial?

4. Have any military authorities requested the proposed trial?

5. If the military witnesses have left the area are statements signed by the accused and other witnesses available if required?

6. It is pointed out that on the documents submitted the case appears to be exceedingly weak and in the absence of the military witnesses or signed statements it will be almost, if not quite, impossible to establish a prima facie case.

7. In case you have kept no copy the Police Report is returned herewith for your convenience. Please return with your reply.

BY COMMAND OF COMMODORE STONE.

W. E. HEIFENS.
Colonel,
Deputy Chief Legal Officer.

60

Encls: Police Report & Translation.

WFB/wcw.

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

(40A)

23 October 1944

L-

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

1. It is requested that authority be given to try the above subject before a General Military Court.

2. In this case the above subject shot and killed a French soldier by the name of BANNAT Abdelkader. A complete report of the investigation is attached hereto and made a part of hereof in the request for the trial of the subject before a General Military Court.

NAME OF PERSON ARRESTED: Insalata Antonio.

ADDRESS OF PERSON ARRESTED: OLIVETTO-CITRA - Salerno Province.

NAME, RANK, NUMBER AND UNIT or ORGANIZATION of PERSON MAKING ARREST:
Gendarmes SEGUY Léon, M.D.L. Chef, PASTOR Joseph, DEMIRI Seyah.

ETK/pv

L. F. Dawson 59
L.F. DAWSON,
Lt.Col., G.L.,
Regional Legal Officer.

Parafinieri - found body
called Insalata
BENVENUTO gun episode

(40B)

daughter Emilia (12 yrs)

mother, my 2 sisters & Filange present when shot fired.
"my father shot at a French soldier who passed."
"2 other girls were fired by another Croatian Antonio Ryke"
daughter Florinda (8 yrs)
confronted Emilia by mother

(wife) CALSARETA
Pisana
Admitted "my children tell the truth"

daughter Assunta (22 yrs)
1730 hrs - whole family, father mother, 2 sisters & my little brother, under tree, when we saw 8 Fr. soldiers. Immediately we returned to house: my father took gun & went out, followed part of garden. When he came to middle of garden, he fired 2 shots at soldier. He told my sister Theresa to go & report deserting of body (Antonio Ryke) had nothing to do with the killing.
daughter Theresa (20)
continued Assunta's story.

(b7) CALSARETA
Rosaria

(b7) (not confirmed)
Admitted "my children tell the truth"

daughter Assunta (22 yrs)
1730 hrs - white family, father mother 2 sisters
& my little brother, under tree, when we saw
soldier immediately we returned to house, my
father took gun & went out & followed past
W of garden when he came to middle of
garden, he fired 2 shots at soldier
He told my sister Theresa to go & report discovery
of body (Antonio Ruffini had nothing to do with the killing)
Theresa (20) confirmed Assunta's story.

Recused
② wife says she
got black eye
2 or 3 days
previously

Originally denied - then told story as follows:-
1730 - French soldier - took my son (guarding my head)
towards hut & wanted to make him enter -
wife ran to help - received blow in face -
Assunta or her brother ran to me - I took my
gun & fired 2 shots, killing him instantly -
him under impulse of fury.

Wife (recused) Confirmed.

4129/6

(NSALATA)

HEADQUARTERS
AMG FIFTH ARMY (FIELD)
LEGAL DIVISION
APO 464 U.S. ARMY.

400

Ref 25-5

24 May 1944.
208/CA/45.

SUBJECT: Murder Cases.

TO : R.L.O., Region III, A.C.C.

1. Herewith two cases arising in the old C.E.F. area. They were sent by the S.C.A.O., C.E.F.
2. As this area is now administered by Region III, will you please deal with them.
3. The accused are held in the gaol at Sessa.

John Willis

J.L. WILLIS. Lt. Col.; R.A.,
Acting S.L.O. AMG 5 Army.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

File
AC/4129/6AL.

VER/mt
4 Nov. 44

(D40)

SUBJECT: Case of MONACO Giuseppe.

TO : Regional Commissioner SOUTHERN Region.
(Attention Regional Legal Officer).

1. In reply to your L. 3046 of 30 Oct 44 the file is returned herewith.

2. Brig. Upjohn has refused the application for trial by an Allied Military Court.

3. It is pointed out that, in spite of the apparently suspicious circumstances, the accused cannot be charged under any law with an offence more serious than possession, or possibly theft, of the various W.D. items.

4. The various considerations already discussed with Regional Legal Officer are well known, but it is felt that at this stage it is impossible to undertake the trial of cases of possession of W.D. property.

5. Brig. Upjohn directs that the Regional Legal Officer should watch carefully the trial of this case by the Italian Courts, he should require an expeditious procedure and periodical progress reports. The case must be given high priority.

By command of Commodore STONE:

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

4129/6

~~43~~
E40

30 October 1944

SUBJECT :

2. There is attached hereto the complete report of investigation.

NAME OF ARRESTING OFFICER: Sgt. Peter G. Dennis.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

ACC/4129/6/L.

24 October, 1944.

SUBJECT : DE SCRA, Nicola.

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

1. Reference your I-4020 of 20 October 1944, the Vice President of the Civil Affairs Section has not approved the application for an Allied Military Court in this case.

2. He feels that the case is not one of deliberate action against the Allied Forces and that it should therefore be tried by the Italian Courts. At the same time he feels that it is a case in which the Allied Authorities are naturally extremely interested and that therefore the Italian Courts should be pressed to proceed with the trial with all possible dispatch.

BY COMMAND OF COMMODORE STONE.

Enc: Court of Enquiry Proceedings.

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

WIB/vow.

5/

HEADQUARTERS

SOUTHERN REGION, ALLIED CONTROL COMMISSION

LEGAL DIVISION

APO 394, U. S. ARMY

38A

L- 4020

20 October 44

SUBJECT: DI SORA Nicola request for General Military Court.

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

1. Request is hereby made for Trial of the above subject before a General Military Court at Salerno.

2. Subject DI SORA Nicola, as result of his negligent and careless driving ran into and against PTE. GRIFFIN, thereby causing the death of the said PTE. GRIFFIN.

3. Attached hereto is a complete report of the investigation.

4. The name of the person arrested, address of person arrested and name, rank and unit or organization of person making arrest are as follows:

NAME OF PERSON ARRESTED: DI SORA Nicola

ADDRESS OF PERSON ARRESTED: Via Madonna della Neve No.48;FRASINONE now located at the Caserma CO.RR. VAIRANO (Naples)

NAME,RANK, NUMBER AND UNIT or ORGANIZATION of PERSON MAKING ARREST
Cpl.Major Pappatico Salvatore, No.1 Italian Traffic Control Company under command 103 Company, C.M.P.(T.C.).

LEGAL SUB-COMMISSION	
CLO	
DCLO	←
Chief Counsel	
CJO	
Italian Section	
CL RKS	
21 OCT 1944	

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

53

2 1 3 2

785016

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(37A)

ACC/4129/6/L.

/rlp.
20 October 1944.

SUBJECT : Case of SESSA Mario (Taranto).

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

1. Reference your L-4007 dated 4 Oct 44 forwarding the attached letters.
2. Major Franklin has stated on being interviewed, as he has noted in pencil on one of the attached letters, that the Court case files were handed to the Port Security Section for Major Mattee, G.S. I.b. of 2 District.
3. Major Franklin also states that he has explained all this matter verbally to Major Boyd Carpenter when he recently visited the South.

By command of Commodore STONE:

RICHARD H. WILMER,
Colonel, C/O,
Chief Legal Advisor.

Incls.

52

4129/6
HEADQUARTERS VENEZIA REGION
Allied Control Commission
APO 394

36A

18 October 1944.

TO : Chief Legal Officer,
Legal Sub-Commission A.C.C. ✓
SUBJECT: Attached letters.

FILE No: RXII/LE/Reg/A/OI3.

The attached letters were handed to Capt. Oates when he recently visited the sub-commission.

Major Franklin has stated on being interviewed, as he has noted in pencil on one letter, that the Court case files were handed to the Post Security Section for Major Mattee, G.S. I.b. of 2 District.

Major Franklin also states that he has explained all this matter verbally to Major Boyd Carpenter when he recently visited the South.



WBR Lates Capt.

for
Colonel,
Regional Legal Officer
Venezia Region.

LEGAL SUB-COMMISSION

CLO

CLO

Chief Counsel

CJO

Italian Section

CL RKS

20 OCT 1944

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

L-4007

4 October 1944

SUBJECT: SESSA Mario (Taranto)
TO : Chief Legal Officer, Legal Sub-Commission, A.C.C.,
Rome.

1. Attached hereto is copy of signal this day received from Legal Officer, A.C.C., Taranto.

2. From previous correspondence, it would appear that Major Franklin took the court case files with him when he was transferred to another Region. Up until this date he has not returned said files to Taranto.

50

ETK/pv

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

*Have explained verbally to Major Boyd
Carpenter on this day (4-10) that the files
were handed over to PSS for Major Matteo
§ 5 / 6 2 district*

Col Willmer

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

(B6c)

3 OCTOBER 1944

FROM : L.O. ACC TARANTO
TO : HQ SOUTHERN REGION ACC
DATE TIME : 30-1643
REF N R : None
RESTRICTED :

Italian sailor SESA Nario held
Taranto Military prison at disposal ACC. Case
believed political but no papers held here by
ACC or Italians. Believed removed by Maj. FRANKLIN.
Can information be given when and by whom case
will be tried.

49

DISTRIBUTION:

Legal (Action)
Ex.O.
File.

COPY

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4129/6/L.

WEB/pa.
19 Oct 44.

SUBJECT : PAPPALANNO Giovanni.

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

1. At the time of my telephone conversation with Col. Dawson I did not know that Brig. UPJOHN had already dispatched his decision in this case.

2. I have since spoken to Brig. Upjohn, and he confirms that, subject to the view of the Allied Military Authorities, there is no objection in the Italian authorities being invited to try this case.

BY COMMAND OF COMMODORE STONE

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
CIVIL AFFAIRS SECTION
APO 394

34A

EB/rm.

ACC/4129/6/L.

13 Oct. 44.

SUBJECT : TAPPALANNO Giovanna.

TO : Regional Commissioner (for RLO)
Southern Region.

1. The papers in this case are returned herewith.
2. The evidence against the accused rests almost entirely upon her confession, which was admittedly obtained by duress. If this confession is excluded there is no evidence against the accused.
3. I have therefore decided to refuse permission for the holding of an Allied Military Court in Italian Government territory.
4. In view of the question specifically raised by HQ 2 District, I would inform you that in your discretion, and without having to obtain authority from this HQ, you may convene in Naples commune an ordinary AMG General Court to try the accused under the AMG Proclamations for her activities in Naples. I must observe, however, that the evidence available for such a trial is no less subject to the defect mentioned in paragraph 2.

41

G. R. DeJohn

G. R. DEJOHN, Brig.
V.P., C A Sec.,
Deputy Chief of Staff.

Enclos.

SECRET

33A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/L129/6/L.

WEB/pa.
13 Oct 44.

SUBJECT : PAPPALARDO Giovanna.

TO : D.C.S., C A Section.

1. Herewith are attached the documents in the case of the above alleged enemy agent. HQ AAI, HQ 2 District and HQ 3 District are anxious that she be tried by an Allied Court for espionage either in Naples or in Italian Government Territory.

2. The accused is alleged to have crossed the lines about 13 June 1944, to have moved to Rome, Naples and Taranto collecting information. She reached Taranto on 11 July and was arrested there on 22 July.

3. The accused made a complete confession which, if true, shows that she was an intelligent, determined and dangerous spy.

4. Various statements have been obtained from persons in Naples, ^{and} Taranto which are entirely ~~in~~ consistent with the confession but do not "corroborate" it in any incriminating particular. They show that the accused gave a false reason for her journey from Naples to Bari (to which she was going from Taranto when arrested).

5. When arrested the accused had in her possession a paper showing the designs of British uniforms and AFVs. She gave, however, a perfectly true and reasonably harmless explanation of this - that it was produced by an Italian Sgt in Naples to settle an argument. She added, which is probably true, that she retained it by inadvertence. 46

6. There is, unfortunately, no doubt that the statement was obtained by pressure. The interviewing officer relates that he, after 6 hours questioning, pointed out " that unless she confessed she would get her cousin and her parents arrested " and that "at this stage PAPPALARDO was in a state of collapse".

7. It is felt that in these circumstances the court should refuse to accept the confession. If the confession is rejected there is no evidence to convict. Even if it is accepted under the Consolidated Regulations it is doubtful whether technically there is any "corroboration" so that even under AMG rules the accused would have to be acquitted.

8. It is to be observed that the accused can always be tried in Naples by an AMG General Court for her activities there, though para 7 will still apply. It is felt in any event that, in spite of the desires of the military authorities, a court in Italian Government Territory should be denied.

9. A draft is attached for your signature if you concur.

Richard H. Wilmer
b RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Advisor.

1 Enclos.

*Legal*SECRET

33B

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



R/2065

8 October 1944

SUBJECT: PAPPALARDO Giovanna di Michele - Alleged Espionage

TO : Headquarters, Allied Control Commission
(For Attention of Chief Legal Officer, C.M.F.)

1. I forward, herewith, just as I have received them from the General Staff HQ, 2 District, C.M.F. the complete papers listed as under in the above mentioned case.

2. You will observe that not only are HQ's No. 2 and 3 Districts interested in this case, but also HQ, A.A.I. has specifically requested that arrangements be made for this woman to be brought to trial. The Regional Chief Legal Officer has carefully ~~proposed~~ ^{perused} all the papers in the case, and from such perusal, it appears that any charge which might be brought against this woman in an Allied General Military Court would depend almost entirely for its substantiation upon the statement she has made.

3. There is no doubt in the Regional Chief Legal Officer's opinion that PAPPALARDO's statement shows that she was definitely serving the enemy as a spy. 41

4. Two difficulties, however, present themselves to the mind of the Regional Chief Legal Officer in connection with trial by an Allied General Military Court which are as follows:

a. The papers in enclosure (3) show that her interrogators had brought pressure to bear upon her to make her statement, by first of all pretending that they had received a message from Venice giving all details about her and what she had done, and by pointing out that unless she confessed, she would get her cousin and her parents arrested. "At this stage PAPPALARDO was in ^a the state of collapse" having been questioned for six hours (see page (10) in enclosure (3)).

b. PAPPALARDO was arrested on the 22nd July 1944, and certain jurisdictional difficulties also seemed to arise. Her espionage activities according to her statement took place in Zara, Rome, Naples, Taranto and perhaps Bari ^{and} show that she has covered a considerable stretch of Country both within Allied Controlled Italy and outside of it.

5. The remaining enclosures consisting of statements, etc. do not throw much light upon this woman's activities as a spy except perhaps the statements made by certain of the witnesses contained in enclosure (4) and the unposted letter written by PAPPALARDO to her parents contained in the enclosure (6).

6. In addition to these two pointers which corroborate her confession in one or two material particulars, there is the money found upon her person on her arrest (see page (11) of enclosure (2)).

7. Most of the investigation in this case appears to have been done by the Italian SIM, and in the opinion of the Regional Chief Legal Officer, it was well and conscientiously done *as far as Italian methods go.*

8. In agreement with the Regional Chief Legal Officer, with Headquarters No. 2 and 3 Districts and GHQ, A.A.I., I should be pleased to see this case tried by an Allied General Military Court, but should such court reject PAPPALARDO's confession, there will be ⁴ no evidence upon which to convict her.

9. If you decide to authorize me to convene a General Military Court to decide this case, I would ask you particularly to take into consideration the request made by HQ, No. 2 District, that as part of her ~~part of~~ espionage activities took place in Naples, it might be possible to try her under AMG Proclamation No. 2, article (1), section (1).

10. I attach copy of the letter from HQ, No. 2 District covering all enclosures.

	LEGAL SUB COMMISSION
	CLO
	DCLO
ENCLS.	Chief Counsel
(Page 3)	CLO
	Italian Section
	12 OCT 1944

AS
C. E. TEMPERLEY
Colonel
Regional Commissioner

ENCLOS.

1. Original signed statement by PAPPALARDO with a transcription and translation (2 copies).
2. "Narrative " (Cronistoria) by Italian SIM with translation (1 copy).
3. "Account" (Relazione) by Italian SIM with translation (1 copy)
4. (a) A copy of the letter in Italian (& translation) written by Amedeo Mammalilla to his wife Giulia MAUCHE in Naples, and brought from EOT by PAPPALARDO (2 copies of translation).
- (b) Original signed statement by Signora MAMMALILLA in Italian and translation (2 copies).
- (c) Original statement from SIM (Naples Office) regarding PAPPALARDO's stay in Naples, with translation (2 copies).
- (d) Original Statement and translation (2 copies) of Caterina MAURO, Margherita FESTIGGIANA, Giacomo BARDASCINI, Giuseppe DI PIETRO, Oreste FERRARIN.
5. (a) Original letter from Signora MAMMALILLA to her husband in EOT with translation (2 copies).
- (b) Printed chart of uniforms and tanks of Allied Armies obtained by PAPPALARDO from DI PIETRO.

For what they are worth:

6. (a) Original of unposted letter from PAPPALARDO to her parents (2 copies of translation).
- (b) PAPPALARDO's original statement and two translations about her acquaintance with MAMMALILLA, and her acquaintance with ADABBO.
7. Original statement by EUCARIA (with 2 translations)

SECRET

32A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4129/6/L.

/gb.
22 Aug 44.

SUBJECT: Xitta incident.

TO: (Thru Regional Commissioner) Region 1.

1. It has been agreed with the A.A.I. that:
 - (a) PULISANO & AMANTIA shall be committed for trial before an Italian Court.
 - (b) SCATTURO shall be released.
2. The file is returned herewith.

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

41

4129/6
SUBJECT: XITTA Incident.

LEGAL (31A)
HQ ALLIED ARMS IN ITALY

Tel: FILPOT 223

5063/101/A(PS)

20 Aug 44

HQ Allied Control Commission.

Ref ACC/4129/6/L of 15 Aug 44. 29A

With reference to your letter of 15 Aug 44, in view of the lack of evidence I am directed to say that it is agreed that action should be taken as suggested in your para 9.

CMP/MD

C. H. P. *Patou*
Brigadier,
DAG. 10

30A

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 324
ADMINISTRATIVE SECTION

ACC/4129/6/L

16 Aug 44.

SUBJECT : Xitta Incident. (Clash between French Troops and Civilians).

TO : HQ AAI, ACC Liaison Officer. (Attn: Major P. Friend James).

Attached is the enclosure mentioned in para 2 of this office
letter of even number dated 15 Aug 44.

It is regretted that this was omitted from the original
communication.

Ext: 525
RRC/vb


R.R. CRIPES, Col
for A/Head Admin Sec.

33

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 594
ADMINISTRATIVE SECTION

ACC/4123/6/L

15 AUG 44

SUBJECT : Xitta Incident. (Clash between French Troops and Civilians).

TO : HQ AACI (DAG) Attn: Brigadier BARNH.

- 1 Since our last conversation relative to the above matter the Acting Chief Legal Officer at this HQ has made a further complete review of the record in this incident.
- 2 I enclose herewith copy of an extract of the report of the Regional Legal Officer, Region I, dated 8 Jun 44, which the Acting Chief Legal Officer advises me summarizes adequately and finally the whole situation.
- 3 There would seem to be only three persons who have been singled out to be charged, FULIBANO, SCATTURO and AMANTIA. A synopsis of the evidence against them is contained on page 2 of the extract of the report of Regional Legal Officer, Region I attached.
- 4 FULIBANO might be charged for having in his possession hand grenades but this seems to be an extremely small part of the overall picture. There is nothing to show that he was using them against any member of the Allied Forces and therefore if he were tried at all he would have to be tried in an Italian Court for having possession of the hand grenades. A trial before an A.M. Court would be certain to end in acquittal.
- 5 The evidence against SCATTURO would surely be that during a riot between Italian civilians and French soldiers he was arrested on the streets of XITTA and there was found on his person a drawing of XITTA wired, for some reason unknown, was thought to be a defensive plan. It is hard to conceive that this is the violation of any statute and there could not appear to be any basis for trial in any Court, Allied Military or Italian.
- 6 Accordingly, so far as an Allied Military Court is concerned, a prosecution against either of the above two would be bound to fail and it would not therefore be right or just to charge them.
- 7 AMANTIA seems to have been identified as having done some shooting but there is nothing to show that any conviction resulted. He probably could be charged for this action under 56 CR for having attempted to commit a crime. Theoretically he could be tried either in an Allied Military or an Italian Court. This is the only one of the accused against whom there would appear to be any substantial charge.
- 8 If as seems likely all the witnesses have since left the territory in which the acts occurred it would be hard to see how even the third of the above mentioned could be prosecuted successfully in any Court. Aside from the question of the

this seems to be an extremely small part of the overall picture. There is nothing to show that he was using them against any member of the Allied Forces and therefore if he were tried at all he would have to be tried in an Italian Court for having possession of the hand grenades. A trial before an I.M. Court would be certain to end in acquittal.

5 The evidence against SCATTINO would merely be that during a riot between Italian civilians and French soldiers he was arrested on the streets of ALGERIA and there was found on his person a drawing of ALGERIA which, for some reason unknown, was thought to be a defensive plan. It is hard to conceive that this is the violation of any statute and there could not appear to be any basis for trial in any Court, Allied Military or Italian.

6 Accordingly, so far as an Allied Military Court is concerned, a prosecution against either of the above two would be bound to fail and it would not therefore be right or just to charge them.

7 ALGERIA seems to have been identified as having done some shooting but there is nothing to show that any casualties resulted. He probably could be charged for this action under 56 OP for having attempted to commit a crime. Theoretically he could be tried either in an Allied Military or an Italian Court. This is the only one of the accused against whom there would appear to be any substantial charge.

8 If as seems likely all the witnesses have since left the territory in which the acts occurred it would be hard to see how even the third of the abovementioned could be prosecuted successfully in any Court. Aside from the question of the presence of the witnesses there does seem to have been a great deal of provocation on the part of the French soldiers and the Acting Chief Legal Officer has doubt, on the record as it now stands, that there would be a conviction in the case or, if so, the sentence would be heavy.

9 In view of the above situation I recommend
(a) that FULIBANO and ALGERIA be committed for trial before an Italian Court;
(b) that SCATTINO be released.

R.R.C.

G.R. WILSON, COL
Adj. Sec., Adm Sec

(J.A.D.)

Exb: 525
GRW/wb

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File : RLE 013.02/FLV

29th July 1944

SUBJECT : Xitta Incident

TO : Legal Sub-Commission - A.C.C. Headquarters - APO 394

Reference this Headquarters letter of even reference number dated 8th June 1944 together with enclosures, and your letter ACC/4129/6/L dated 13th June 1944.

Can these papers now be returned to this office so that they can be turned over to the Italian Court Authorities for trial. Many enquiries are being made by the lawyers of the accused.

For COLONEL A.N. HANCOCK:

Frank L. Vecchiolla
FRANK L. VECCHIOLLA
Major, JAGD.
Regional Legal Officer.

js.

37

LEGAL SUB-COMMISSION	
Chief Counsel	☒
CID	☐
Italian Section	☐
CL RKS	☐
	☐
	☐
	☐

These papers are to be kept up for decision.

to office.

Get copy taken up & report to along Vecchiolla. 1/8/44

4129/6

26A

RECEIVED
JUL 11 1944
LEGAL ATTACHMENT
JUL 11 1944

NY 11/4

11 Jul 44

SUBJECT: Toronto Train Robbery Case.

TO : SAC, New York (100-100000).

1. Ref our NY 1129/6/2 dated 6 June 1944.

2. Please advise me of the present status of the 23 cases generally referred to under the above heading. I am anxious for conversation between you and the Italian Consul and the Italian Consul are taking these over.

File
↓

WALTER E. TERRY,
Colonel, USA
Acting Chief Legal Officer. 30

11/10/44/1000

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

RHW/pa

7 Jul 44

REFERENCE : AOC/AI 9/6/L.

SUBJECT : Jurisdiction of A.M.C. Courts.

TO : RIO (thru RC) Region 5.

1. Reference to your R/511/16 dated 3rd July 44.
2. The proposed trial in A.M. Court is approved.

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

409/6
 TO C.L.O. REAR H.Q.A.C.C.
 FROM H.Q. REGION 5, A.M.G.
 SUBJECT JURISDICTION OF A.M.G. COURTS.
 REF R5/511/16.
 DATE 3rd JULY 1944.

Royal (Rear)
 44325 (24A)

1. Subject to your direction it is proposed to try by General Court 4 or 5 persons for the murder of a British soldier under Proc. 1, Art. 1, Sec. 15.
2. Briefly the facts are that No. 401726 Tpr. A.F. BANNISTER R.T.R. was an escaped P.O.W. fighting with other P.O.W.s ~~with~~ Italian patriot forces in the hills prior to rejoining his unit. He had occasion to suspect one of the patriots of theft, arrested him and handed him over to the patriot commander. The patriot commander released the accused who thereupon collected 4 friends who ambushed and murdered Tpr. BANNISTER. 4 of the 5 have so far been arrested. The identity of the 5th is known.
3. The territory in which the offence was committed was in fact A.M.G. territory, having been recently liberated: the party however were still up in the hills as communications were difficult and the British P.O.W.s, including BANNISTER, could not come down to return to their units. BANNISTER was wearing civilian clothes.
4. It is submitted that BANNISTER was a member of the Allied ^{Forces} and that the patriots are civilians subject to A.M.G. jurisdiction, but your confirmation is requested before proceedings are instituted.
5. An early reply is requested.

For the Regional Commissioner:

W. E. Penrens
 W. E. PENRENS
 Colonel
 R.L.O.

WEB/EP



DEPT. OF DEFENSE
 UNITED STATES OF AMERICA
 Legal Subcommittee
 APR 54

23A
 100/54

ACC/1339/6/1

2 Jul 44

SUBJECT: Colonia Volontari.

TO : RLO (then RG) Region 2.

1. Ref your 2201/74/D Dated 26.6.44.

2. Yesterday the matter referred to in para 2 of your letter was discussed with the Ministry of Justice. It appears that the Procuratore Generale at Bari was instructed to prepare a report. It is quite agreeable to the Minister and this Subcommittee that you or the legal officer at Bari settle this matter direct with the Procuratore Generale, so that the persons who have been detained are promptly released if it appears that no proceedings will be initiated against them.

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

30

4/29/6
✓

file

Legal (Reen)
13658

(23)

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

L-3046

30 June 1944

Subject : Re: TANGARI, ET AL.

To : Headquarters PBS, G + 2 Section (C.I.)
(ATTN Major Andre Fiot).

1. Reference is to the recent conversation (Major Fiot - Lieut. Sabatino) on this subject.
2. The Legal Sub-Commission ACC, has directed that the defendants in this case cannot be tried by an Allied Military Court unless the principle witness against them is produced in Court for cross examination. It is understood this will not be done.
3. The question of the internment of Tangari and others is not a matter which concerns this headquarters.

For the Regional Commissioner:

G.A. Bawlet

G.A. BAWLET,
Major, G.L.,
Acting Regional Legal Officer.

32

LAS/cm

Copy to CLO, Legal Sub-Commission ACC
(Conversation Col. Wilmer-Major Bawlet refers).

Now

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

Regal
32A 2525

REF: 2201/75/D

28.6.44

SUBJECT : Brindisi Train Robbery - in re Lotti and 32 others.

To : Executive Commissioner RC and MG Section, ACC Naples.
copy to: CLO, Legal Subcommittee ACC, Salerno.

A considerable number of requests for trial by AMG Courts continue to be received from Military sources, and most have been refused in accordance with directions.

1. Although on the grounds of shortage of personnel and the time involved, it is impossible to recommend an AMG Court for its trial, a serious case of alleged systematic robbery of Allied goods of considerable value from freight trains running between Bari and Brindisi is reported for information.

2. The detailed report involves 33 accused, against many of which the charges are aggravated by reason of

- (a) A bribe of 20,000 Liras to a railway official
- (b) Possession of firearms to further the robbery
- (c) Use of the firearms (fortunately ineffective on a dark night) against members of the CCRR who arrested the accused in question.

3. While there is some evidence that the robberies covered a period of about five weeks, broadly speaking, only such goods as were jettisoned from the trains on the night of 14th April, or were then found in the accused's house have been recovered. These include such a variety as 80 gallons of petrol, 400 British cigarettes, four large cases weighing about 5 quintals and containing RAF equipment, mainly rubber, etc etc.

4. The difficulty of selecting ringleaders for trial by an AMG Court is that even so, the number of witnesses required by the Prosecution and called by the Defence are likely to cause a protracted trial, at a time when the Legal Branch now reduced to 3 officers is coping with five AMG Courts for which instructions have been received, and a further case of homicide is about to be submitted to you for similar action.

5. Along with the Taranto train robbery case it is therefore proposed to hand over the Brindisi Train Robbery case for trial by the Italian Courts, when an Assize can be arranged.

DESC/mk

John T. Zellers
John T. ZELLARS
Col. Inf.
Regional Commissioner

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

REF: 2201/74/D

SUBJECT : Colonna Volontari.

TO : C.I.O., Legal Subcommittee ACC, Salerno

26.6.44

1. Ref. 4129/6/L of 4.6.44, it is a fact that N°2 District do not propose to take any action in the case.
2. May the Ministry now please be pressed for a decision in order to obviate the custom of encumbering the gaols with persons who may never be tried. Six persons have been in prison as members of the Colonna since January, and there are nine in all.

DESC/mk

D.E.S. Cousins
D.E.S. COUSINS Lt. Col.
R.I.C.,
REGION 2

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

*Col. Thachrah for
appendix.*

29

NEAR HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
AFO 394

CONFIDENTIAL

GRU/gmt

ICA

ACC/4129/6/L

22 Jun 44

SUBJECT: Da Mirard Michele.

TO : EC Region 2.

1. Ref your 2201/70/H dated 15 June.
2. I am directed to state that the a/m is to be tried by an A.M.G. Court. The charges are being prepared and will be forwarded to you shortly.
3. It is pointed out that this case though important from an Allied point of view is somewhat trivial. It is suggested that after the trial of this and other ammunition cases already pending, accompanied by the proper use of publicity, that this type of case unless of very serious dimensions can be handled by the Italian authorities.

DOWN GRADED
TO
UNCLASSIFIED

Col. 1st
Chief of Staff
for the

G. W. UPCHIN
Colonel
Chief Legal Officer.

SECRET

19A

4129/6

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

Ref/264/43/CA.

17 June 1944.

MEMORANDUM TO: Chief Legal Officer.

(18A)

1. In view of par. 6 of your letter of 13 June to the Executive Commissioner (Ref/ACC/4129/6/L.), I return the original letter and accompanying file together with copy of memorandum report dated 15 June 1944 by Captain Charles Oden, assistant A.C.C. - A.A.I. Liaison Officer.

2. I realize that you may properly take exception to some of the implications of the concluding paragraph of the memorandum, but recommend that you overlook these as far as possible and attempt to adjust the matter by direct contact with Headquarters A.A.I. through Captain Oden or Major Friend James, who may be called upon freely to arrange any necessary contacts or conversations, and to expedite.

3. Please advise this branch of any further developments, so that our files may be complete.

DOWN GR. DEED
TO
UNCLASSIFIED

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

Alfred C. Bowman
ALFRED C. BOWMAN, Lt. Col.,
Assistant Director,
Civil Affairs Branch.

20

Copy to: ACC Liaison, HQ AAI.

ACB/eah

Gerald: see
can discuss this
with you when
you are in
Rome

Leave till we arrive
at Rome
giving

These papers are in safe
in blue folder marked 'X' etc

Copy fr MS.

ACC Ln
Hq. A.A.I.

1913

Subject: Disturbances at Trapani

15/6/44

Lt Col Bowman:

"A" Branch kindly lent me their file on the above and I will give you the case history which I believe to be pertinent.

1. The case was reported by Maj General Heydeman, No 1 District on 25/4/44. He recommended that the Italian Civilians be tried by a Military Court.

2. Under date of 29/4, the A.D.J.A.G. (Hq AAI) reviewed General Heydeman's report and stated, "Those civilians against whom there is evidence of bearing arms against the French will, no doubt, be tried by a military court convened by A.C.C."

3. Under date of 4/5/44 the C. in C. addressed a letter to A.F.H.Q. reporting the details of the incident and specifically recommending (in part) "All Italian Civilians apprehended for bearing arms against the French Tps be tried by a Military Court, A.C.C."

4. A.F.H.Q. replied to the above under date of 17/5/44 in part as follows, "It is agreed that all Italian Civilians.....etc.....be tried by a Military Court and it is requested that you take action accordingly."

5. You will observe that AFHQ omitted "Military Court A.C.C." This may well have been an inadvertant omission.

6. On 20/5/44 A.A.I. instructed Distone to arrange trial of Italians by Military Court. This was confirmed by letter same date requesting report of the result of the trials.

7. The substance of the foregoing would seem to be that the C. in C. prop sed trial of Italian civilians by an Allied Military Court but that this intent was lost in subsequent communications. Neither the C. in C. nor the J.A.G. seem to have taken into account the fact that the territory in which the trials are to be held is in "King's Italy" or A.C.C. area.

8. It may be that the position taken by the C. in C. will act as a bar in having these trials shifted to an Italian Court. If the Legal Sub Comm, however, wish to make such a request, we suggest that it be presented to Gen. Robertson C.A.O. for further review by the J.A.G.

/s/ C.R. Oden
Capt.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

Confidential

(18A)

ACC/4129/6/L.

/rlp.
13 June 1944.

SUBJECT : Xitta Incident.

TO : Executive Commissioner.

1. Letter of 8 June 44 from Region I and file are enclosed herewith.
2. According to this letter, No. 1 District has informed Region I that Hq AAI has authorized the trial of certain Italian civilians by an AMG Court.
3. Such an authorization would be improper because,
 - a. The power to authorize trials in Italian Government territory has been delegated to the Chief Commissioner by the C in C AAI.
 - b. No authority could be properly given before the facts have been fully investigated and legal advice sought.
4. Lt. Col. Bowman, PC&MG Section has been requested to ascertain whether in fact any such authorization to hold an AMG Court has been given by Hq AAI.
5. I have read the record; the only material evidence is that given in the charge sheets by Capt. Vincent copied out in the letter from Region I.
In my opinion, it would be quite wrong to convene an AMG Court for the following reasons:
 - a. On the evidence none of the cases involve alleged crimes of exceptional importance, but can adequately be dealt with by the Italian Courts.
 - b. The evidence on which this Hq can form a real estimate is far from complete, there are no relevant witnesses' statements and so on.
 - c. Region I does not want a trial, but has forwarded the case in view of the statement that Hq AAI had authorized a trial (see para 3 of their letter dated 8 June).
6. In view of the above I have not troubled the Chief Commissioner with this matter, but if it should happen that Hq AAI have given some purported authority, or if you think further inquiries should be made into the case of Camelo Amantia, please return the papers to me.
7. Without expressing any views as to who was to blame for the incident I draw your attention to the gross improprieties committed by the French (see excellent report by Major Richardson dated 17 Apr 44).

Copy to

HQ, Region I.

Col. Inf.

Chief Judicial Officer.
for Chief Civil Affairs Officer.

G. R. UPJOHN,
Colonel,
Chief Legal Officer.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APC 394

17A
GRU/gmf

ACC/4129/6/L

10 June 1944

SUBJECT: Trial by Military Court in Unoccupied Territory (PARISI).

TO : HLO Region 3 (thru RC).

1. Ref your L-3062 dated 5 June 44. I am directed to say that Parisi is to be tried by the Italian Courts.

2. While appreciating your point of view you also will appreciate that the crime involved the entirely unjustifiable use of firearms which wounded an Allied soldier and therefore while no pressure will be brought on the Italian authorities to inflict any specific penalty you will please see that the case is dealt with expeditiously; the finding and sentence of the Court will be reported to this HQ.

3. Papers retained herewith.

20
G. R. UPTON, Colonel
Chief Legal Officer.

4129/6

16A

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File : RLE 013.02/FLV

8th June 1944

SUBJECT : XITTA Incident (Clash between French Troops and
Civilians).

TO : Legal Sub-Commission, A.C.C. Headquarters (REAR)

1. The file in the above entitled case is forwarded for instructions as to whether the civilians involved should be tried in an A.M.G. Court or in the Italian Court. The file is not being forwarded in accordance with Paragraphs 3(b) and 4 of Article 3 of Consolidated Instructions, because No.1 District has informed this office that authorization had been received from A.A.I. Headquarters to the effect that the civilians involved were to be tried by an A.M.G. Court. This procedure seems to be contrary to that provided for in Paragraph 3(a) of the Consolidated Instructions which reads that all A.M.G. Courts in unoccupied territory will be convened only by order of A.C.C. Headquarters.

2. Briefly the facts of this case are that between April 5th and April 16th numerous disturbances by the French troops have occurred in the village of XITTA, Province of TRAPANI. It appears from the report made at the request of our Chief of Public Safety that the French soldiers being under the influence of liquor had been molesting women and in a general way created a great deal of disorder in the village. This situation naturally aroused the civilian population and after many re-occurrences of such incidents some shooting took place resulting in some French soldiers being wounded and some civilians being killed by the French. The town was for a short period of time placed under a state of Martial Law by the Commander of the French troops. As a result of all these disturbances, a number of civilians were arrested by the French and were most badly mistreated and beaten. In view of the treatment received by the civilians, this office is hesitant upon placing much value in the statements and admissions made by the civilians. At any rate the French have filed charges against the following named civilians:-

PULISANO Antonino

- Charge: Having on his person hand Grenades.

FACTS: Capt. Vincent entered the Italian Sindaco and there found a large group of men congregated. There was nothing on the table & after a few minutes Capt. Vincent saw hand grenades on the table. Some of the men were arrested by Capt. Vincent and interrogated. Two of the men DENICOLA Antonio and RAFFELIO Salv. told Capt Vincent that the hand grenades belonged to PULISANO Antonino. Pilisano then told Capt. Vincent that he had the hand grenade on his person and he was the one that put them on the table.
(Violation of 697,698,699 C.P.)

SCATTURO Ignazio

- Charge: Inciting a riot and rioting against French troops.

FACTS : Accused was arrested on the streets in XITTA during a riot between t Italian civilians and French Soldiers. Found on the accused person was a drawing of the city of XITTA which we believe is a defensive plan.
(Doubt if this standing alone constitutes any violation).

AMANTIA Carmalo

- Charge: Firing upon French soldiers.

FACTS : Accused was arrested in a house from which shots were fired at French troops. Accused has been identified as one who did the shooting at the beginning of the riot which took place in XITTA in the street.

(Possible violation of Sections 582,583, & 585 C.P.).

3. It is the opinion of this office that the case against the civilians is not of such a nature as to fall within Article 3, paragraph 1 of the Consolidated Instructions. This office has had a number of cases of assaults on Allied personnel, where the Legal Sub-Commission has ordered that such cases be tried in the Italian Court. However if No.1 District has secured from A.A.I. Headquarters authorization to have this case tried by an AMG Court then the Legal Sub-Commission should be so informed, so that this office will not find itself between two conflicting orders. This office will be pleased to learn whether or not the Chief Commissioner or the Legal Sub-Commission has any knowledge of any such order for an A.M.G. Court from A.A.I. Headquarters.

For Colonel A.N. HANCOCK :

Frank L. Vecchiolla
FRANK L. VECCHIOLLA
Major, JAGD.
Regional Legal Officer.

js.

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

15A

ACC/4129/6/L

SUBJECT: Taranto Train Robbery Cases

TO : R.L.O. (thru RC) Region 2

6th June 1944

1. Ref your 2201/76/D of 21 May 1944. — 10A
2. Pursuant to your conversation with Colonel Upjohn, I am returning herewith the papers which you transmitted with your letter of 21 May 44.
3. I understand that Colonel Upjohn left with you a chart I had prepared only for my own use in trying to sort out the cases and the various accused persons involved. Before using it for any official purposes, you should recheck it.

RICHARD H. WILMER,
Colonel, C.A.C. 21
Deputy Chief Legal Officer.

✓ 4/29/6
Q 16A

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

L-3062

5 June 1944.

Subject: Trial by Military Court in Unoccupied Territory.

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

1. There is transmitted herewith the file in the case of Parisi Giuseppe.
2. Examination of the file discloses that the soldier who was wounded was a drunken burglar who was surprized by the householder and his friends actually at the scene of his disgusting depredations. This case is typical of many that are coming to our attention at present.
3. The basic offense, housebreaking, assault, theft, or rape (we have had them all), is committed by a soldier. The civilian involved is acting in defense of his property, his family or his companion. Then we are demanded to exercise our muchly vaunted Anglo-American justice against a civilian who was exercising, what we have been taught to regard as an inherent right.
4. Obviously the faults lies in the complete lack of discipline among the troops. The reason for this lack of discipline, I do not know, but it is either inability, lack of inclination or indifference of officers to enforce a reasonable discipline.
5. In view of the fact that I may be a little prejudiced in this matter I am requesting that you make the determination as to whether or not this case should go to an A.W.G. court. I will follow the policy.

For the Regional Commissioner:

John W. Chapman
JOHN W. CHAPMAN,
Colonel, JAGD,
Reg. Legal Officer.

JWC/mo

File

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APC 394

14A
GRU/pe

4 June 1944

REFERENCE : 4129/6/L.
SUBJECT : Colonna "Volontari".
TO : R.L.O. (thru HQ) Region 2 .

14B
14C

1. Ref. your 2201/74/3 dated 21 May 1944.
2. I am directed to say that the papers have been handed to the Minister of Justice for his consideration without any indication from this HQ. as to whether any action should be taken by the Italian Government or not, in respect of their particular activities.
2. I assume from HQ 2 District letter 2022/72 GSI dated 15 May that they are not interested in a prosecution merely for being in possession of false P.S.S. passes.

*returned
with papers*

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

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APC 394

ART/pa

14B

4 June 1944

REFERENCE : 4129/6/L.
SUBJECT : Colonna Volontari.
TO : H.E. The Minister of Pardon and Justice.

1. I am directed to hand the attached papers on the investigation of the activities of the above mentioned organization to your Excellency for consideration.
2. If it is the intention of the Italian Government to take any action thereon which might be of interest to the Allied Military Police services, may this Sub-Commission be advised please.

Copy
A. R. THACKRAH,
Lt.Col,
for Chief Legal Officer.

Enclosures : 2 files.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

21 May 1944

Ref. :- 2201/74/D
Subject:- Colonna Volontari Case
To :- C.L.O. Legal Subcommittee ACC. SALERNO

1. Ref the attached file which will you please return, may instructions please be given regarding the ten men still under arrest in Bari jail.

2. In view of the Political nature of the case, and the names of certain persons involved, it is suggested that the men be either tried by Italian Courts for having passes showing they were members of the FSS, or that they be forthwith released.

D.E.S. Cousins
D.E.S. COUSINS, Lt. Col.
R.L.O.
Region II

DES/im

LEGAL SUBCOMMISSION	
CLO	
DCO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

REF: 2201/71/J

31 May 1944

SUBJECT: Trial of Italians for murder
of Allied Personnel.

TO : C.L.O., Legal Sub-Commission, ACC, Salerno.

Herewith S.I.B. reports in two recent cases; the record is as full as it can be made at this stage. May directions please be given showing whether the cases are to be tried by Allied or Italian courts? An Allied court would decide both cases more quickly: in the case of Mastrovito it would probably arrive at the same result as an Italian court, in the case of Di Santo probably an Italian Military court would arrive at a verdict more favourable to the accused.

As the reports are S.I.B. file copies, may they please be returned?

AWE/mk

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

Auth Frank Major
for Lt. Col.

R.L.O.
REGION 2

Auth Frank Major
see files
4/29/8
4/29/9

11

13A

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACG/4129/6/L.

/rlp.
28 May 1944.

SUBJECT : Allied Military Courts in death of Allied soldiers.

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

1. Brief statement of facts in the case of Bontelli forwarded in your letter 2201/71/3 of 17 May 44 is returned herewith. The name of the deceased does not appear in the statement.

2. According to the meagre facts submitted, it would appear that the offense was committed 11 Nov 1943 in territory not occupied, and in which there was no jurisdiction for Allied Military Courts to try cases until after 10 Feb 1944 involving offenses committed after that date.

3. Aside from the above obvious jurisdictional objection to the convening of an Allied Military Court, the facts submitted would not be sufficient to enable this Hq to determine whether

- a. An Allied Military Court should try the case
- b. An Italian Court should try the case
- c. The facts warrant any trial at all.

After the lapse of time it is uncertain whether the original military witness is now available.

4. Before forwarding cases for consideration, the Regional Legal Officer must give some study to them and see that there is submitted as full a record as possible. The attitude and prompt functioning of Italian Courts in the vicinity is one of the elements to be considered. In any event, follow the directive of the Executive Commissioner of 23 May 1944.

5. Brief statements of facts forwarded under your above quoted letter in the cases of Montuori and Rasiti are also returned. The comments in paras 2 - 4 above apply in these cases as well.

RICHARD H. WILKINSON,
Colonel,
Deputy Chief Legal Officer.

file
HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

RHW/gf

12A

ACC/422/6/L

24 May 1944

SUBJECT: AM Courts in Italian Government Territory.

TO : RC and MC Section.

1. Pursuant to the provisions of letter of 23 May 1944, I am forwarding herewith, without prior examination and without comment, two files accompanied by requests for trials by Allied Military Courts in Region 2. The cases are referred to as "Taranto Train Robbery Case" and "Parlette Spy Case".

2. It is understood from the above mentioned letter that ultimately this Subcommittee will be consulted with regard to their disposition.

RICHARD H. WIMMER
Col.,CAC
Deputy Chief Legal Officer.

Copy to RLO (thru RC) Region 2.

4129/6 file

HA

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394

Regional Control and Military Government Section.

Legal
27 May 1954

Ref: 283/CA.

25th May 1944.

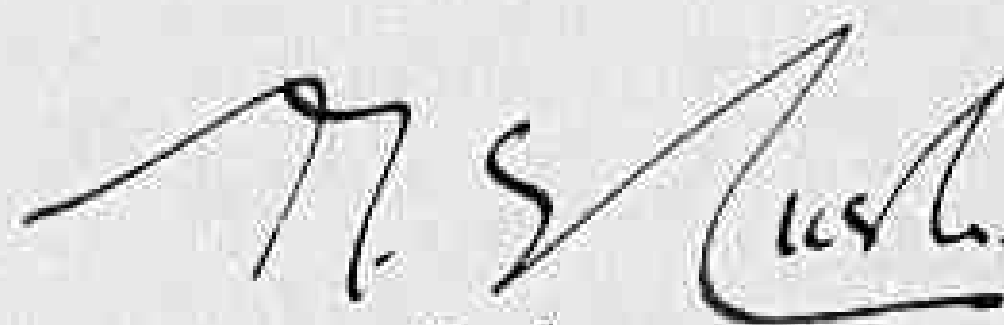
SUBJECT: AMG Courts in Italian Government Territory.

TO : Administrative Section
(Attn. Chief Legal Officer).

I refer to your ACC/4129/L of 22nd May. I am grateful to you for
Sending the papers to me.

1. In view of the fact that this recommendation was made
before receipt of the directive in Region II, I do not propose to
waste time by asking the Regional Commissioner for his recommendation.

2. I agree with the recommendation made by the Provincial
Officer that the case should be tried by a military court and in
view of the apparent provocation in both cases I would urge that
proceedings be instigated as rapidly as possible.



Brigadier,
Executive Commissioner.

MSL/JG.

So, papers returned are attached in appropriate files.

13



4129/6
SECRET

319

(16A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

21 May 44

Ref. : 2201/76/D

Subject: Taranto Train Robbery Case

To : C.L.O. Legal Subcommittee ACC. - SALERNO-

1. Attached please is file relating to the
Taranto Train Robbery case.

2. Application is hereby made for the case
to be tried by AMG General Court.

3. The case would be ready for trial 11 days
after receipt of the charges from you.

4. Proposals for composition of the Court will
be submitted when the approximate date of the trial
is known.

DES/mk

LEGAL SUBCOMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CLERKS	

SW
D.E.S. COUSINS, Lt. Col.
RIO
Region II

DOWN GRADED
UNCLASSIFIED

Col. Inf.

Chief of Staff
for - Chief of Staff Officer.

/pa

7A

22 MAY 1944

ACG/412

SUBJECT : A.E.G. Courts in Italian Government Territory .

TO : Executive Commissioner .

1. Enclosed are communications in five cases involving the death of five Allied soldiers at the hands of Italian civilians. Two cases are from Region 3 and three from Region 2.
2. They are being sent to you in view of the requirements set forth in the proposed form of directive regarding the holding of A.A.G. Courts in Italian Government Territory, sent to this Sub-Commission by letter dated 18 May 1944.
3. This Sub-Commission accordingly has not taken any action whatever on these cases by way of asking for further details or otherwise, but understands that ultimately it will be consulted with regard to their dispositions, pursuant to the above mentioned directive.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

SECRET

8A

21 May 1944

Ref. :- 2201/76/D

subject : Taranto Train Robbery case.

TO : C.L.O. Legal Sub-Commission ACC. Salerno.

1. Attached please is file relating to the Taranto Train Robbery case.

2. Application is hereby made for the case to be tried by AMG General Court.

3. The case would be ready for trial 11 days after receipt of the charges from you.

4. Proposals for composition of the Court will be submitted when the approximate date of the trial is known.

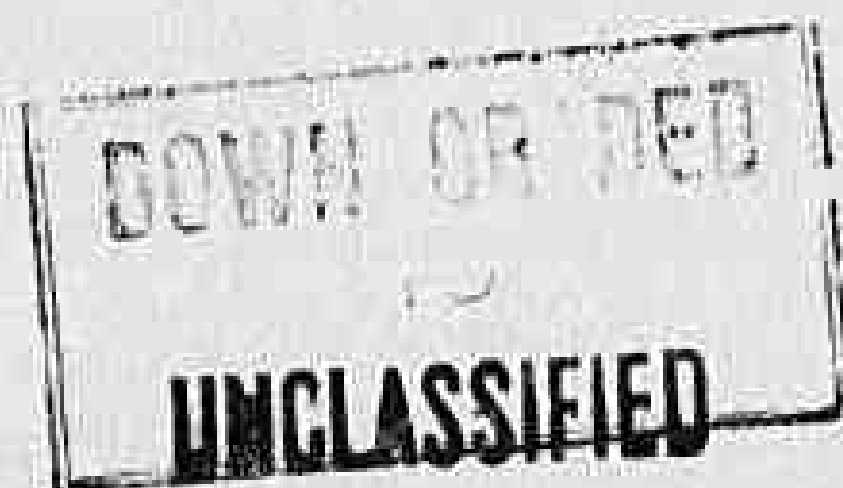
(sgd)

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

R.L.O.

Region II

DES/rk



Col. Inf.
Chief of Staff Officer.
for Chief of Staff Officer.

COPYHEADQUARTERS
ALLIED CONTROL COMMISSION
REGION IISECRET (7A)

21 May 1944

Ref. :- 2201/74/D

Subject : Barletta Spy case .

To : C.L.O. Legal Sub-Commission ACC. - Salerno-

1. Attached please is file relating to the Barletta Spy case.
2. Application is hereby made for the case to be tried by A.M.G. General Court.
3. The case would be ready for trial 11 days after receipt of the charges from you.
4. Proposals for composition of the Court will be submitted when the approximate date of the trial is known.

(sgd)
D.E.S. COUSINS, Lt. Col.
R.L.O.
Region II.

DOWN GRADED
TO
UNCLASSIFIED

Col. Inf.

Chief

2177

See 4129/G

6A

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

L-3062

20 May 1944.

Subject: Trial of Civilians in unoccupied territory.

To : CLO, Legal Sub-Commission, A.C.C.

1. Herewith are sent the papers relating to applications for trial by AMG Courts of MARRA, Giuseppe and CRISCUOLO Vito who are accused to killing two separate Canadian soldiers in the Province of Salerno.

2. May instructions be issued please.

For the Regional Commissioner:

For signature
JOHN W. CHAPMAN,
Lt.Col., JAGD,
Reg. Legal Officer.

GAB/gda

Copy to Provincial Commissioner, Salerno Province for PLO

Encls -

1. Letter pf Lt.Col. Robertson dated 5/18/1944.
2. Report Legal O. Bannò
3. Report and statements Ref. 66/Sib/A/44/235
4. Report and statements Ref. 66/Sib/A/44/236.

REGIONAL COMMISSION	
CLO	
Legal Counsel	
Section	
CLERKS	

File
4129

Subject:- Trial of persons
alleged to have assisted
French security agent
posing as enemy agent.

HQ ALLIED ARMIES IN ITALY

CONFIDENTIAL

AAI/1456/61/GSI(b)

19 May 44.

C.G., P.B.S.

Reference your 383.4 BFG dated 14 May 44.

1. It is agreed that this case should be tried by A.M.G. General Military Court, and it should be referred by your H.Q. to Senior Legal Officer, No.3 Region.
2. It is considered unlikely that A.M.G. will agree to the exclusion of the accused from the court while the evidence of the French agent is heard: the desirability of such a procedure from the purely security point of view is appreciated, but the decision in this matter must rest with the A.M.G. legal authorities. In any event, it is desirable that the case should be held in camera, and application should be made to the S.L.C., 3 Region accordingly. Moreover, in the event of the accused being acquitted, they can and will be interned for the duration.

LEGAL SUB-COMMISSION	
CLO	☒
CO	☒
Chief Counsel	☐
CJD	☐
Italian Section	☐
CL RKS	☐
	☐
	☐

W.D. Gibson. Lt. Col
Lt-General,
Chief of General Staff.

Copy to:- Chief Legal Officer, A.C.C.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

4A

ACC/4129/6/L

IC/jpl
19 May 44

Subject : Case of GIAMPIETRUZZI Michele and others.
To : Regional Legal Officer, Region 2.
Ref you 2201/80/C of 15 May.

1. The proposal in para 2 of your letter is agreed.
2. It seems doubtful, on the limited information now before this H. Q., whether this is a proper case to be brought before an Allied Military Court.
3. However, it is quite impossible to tender any advice to the Chief Commissioner merely on the report attached to your letter. In order to be able to do so, it is required,
 - (a) To know (so far as investigation can carry the question) the circumstances in which the right came about, and
 - (b) To see all other available information such as the statements referred to in the report.

(c)

GERALD R. UPJOHN
Colonel
Chief Legal Officer.

6

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

May 17, 1944

Ref. 2201/71/3

Subject:- Homicides

To :- C.L.C. Legal Subcommittee ACC. - SALERNO -

1. Further to this H.Q. letter 2201/80 C of 15.5.44, attached please are particulars regarding three cases of homicide of Allied Soldiers.

2. May an early decision please be given of whether they should be tried by AMG. or Italian Courts.

[Signature]
D.E.S. CONSIGES, Lt. Col.
R.L.C.
Region II

See file 4129

4129/6
new file

2A

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

May 15 1944

Ref. :- 2201/30/C/

Subject:- Killing of Allied soldiers - In re Pte. HARLAND

To :- C.I.O. Legal Subcommittee ACC. - SALERNO -

1. Five cases old and new involving the death of Allied soldiers have been reported.

2. It is proposed always to submit any such case to you for consideration of whether it shall be tried by A.M.G. Court or not.

3. Attached please is the case of Pte. HARLAND. May early instructions please be given of the Chief Commissioner's decision in the matter.

Case of GIAMPIETRAZZI family (Killed)
(Killing of Allied Soldiers at SANTERAMO)

D.E.S. Cousins
D.E.S. COUSINS, Lt. Col.
R.L.C.
Region II

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COPY

67th Section,
Special Investigation Branch
H.Q. Taranto.
20th March, 1944.

REFERENCE: S.I.S. /877/A/44/88

SUBJECT: Persons Arrested.

GIAMPIETRUZZI Michele
GIAMPIETRUZZI Giuseppe
GIAMPIETRUZZI Marino
GIAMPIETRUZZI Nicola
DI SANTIS Giovanni

Via Principe di Piemonte 1.

BIUZZI Giovanni,
Via Principe di Piemonte 9.
SANTERAMO

To: The Officer Commanding,
67th S.I.S. C.M. Police.
Headquarters Taranto.

Sir,

I have to report that on the 14th March, 1944, the above named persons were arrested by the Marshal of Carabinieri, Santeramo, and from inquiries made by this Section, it appears they can be charged with the following offence:-

Murder: In that, whilst concerned together, they did wilfully and with malice aforethought, take the life of one, Pr. 1576887 Private Herbert HARLAND, soldier of the 'R' Company and Independent Parachute Brigade, (Base) by fatally injuring him on the head with a stone or other instrument, at about 22 00 hrs. on the 14 March

 To: The Officer Commanding,
 67th S.I.S. C.M. Police.
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GIAMPIETRIZZI Marino, aged 72 years, was later released from arrest owing to his suffering from shock and injuries to his face. GIAMPIETRIZZI Nicola, the priest, was also released as it is felt by the Carabinieri, that his case required reviewing when all the evidence is available. He is not likely to abscond and will be available if required.

The other four persons are at present detained at the Carabinieri Bari, pending trial for the offence.

I immediately informed Captain HUTCHINS, Officer Commanding 67th S. I. S., and with whom I frequently conferred during the investigation.

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It would appear that at about 21 30 hrs. on the 14th March, two brothers, Private Sydney and Herbert HARLAND went into a house, Nr. 1 Principe di Piemonte, Santeramo, and for a reason not quite clear, a fight broke out between them and the house occupants.

Sydney HARLAND fought with a man with a scar, later identified as BITETTI Giovanni, whilst the other brother fought with the Giampietruzzi family. (Statement "A").

Herbert HARLAND went through a glass door into the street, followed by the GIAMPIETRIZZI, whilst Sydney Harland struggled into an adjoining room with BITETTI, who struck him several blows on the head with a stick, and escaped through a side door into the Via San Leonardi, near to where the body of Herbert HARLAND was eventually found. (See Sketch Map).

Meanwhile Sydney HARLAND got up and went in search of his brother going through the first entrance door, and failing to find him, went to the billet for help.

The body of Herbert HARLAND was found a few minutes later, in the Via San Leonardi, by a Private FREEMAN and a Cpl. RENWICK, (Statement "D").

In the house Via Principe di Piemonte they found all the GIAMPIETRIZZI family, and from the scenes in the house it was evident that a severe struggle had taken place, and when Captain GOURLAY, the O.C. 'R' Company came on the scene, he conveyed the brothers of the family to the Marshal of the Carabinieri. (Statement 'R')

Early next morning a large stone covered with blood stains and some reddish coloured hair was found by a Sergeant O'MALLRY near the scene of the crime - Statement 'R' - and an iron weight was found a few feet away from the main entrance door of the Principe di Piemonte l. by a Corporal SCANES (Statement 'C')

A pair of damaged spectacles were also picked up in the same place as the weight.

On my arrival at the Principe di Piemonte, I examined the house, and saw a quantity of blood on the floor, although it was obvious that blood had been removed by washing. Blood - stained cloths were lying about, but I felt satisfied they were bloodstained through wiping the blood from the old man's face, who had a very severe blow on both eyes, and had a good deal of nose bleeding.

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The glass panel of the main entrance door was broken and the glass was still lying about, and it appeared to me to have been broken from inside. I searched the house thoroughly for other blood-stained clothing but with negative result.

I saw the spot where the body had been found, but apart from the stone, the weight, and the spectacles handed me, nothing of much importance could be found, as the place was not clean and it was difficult to tell whether HARLAND had received his injuries standing up or on the ground. I took a blood stained stone from the wall marked on the Sketch, and observing it was of the same type as that found near the crime retained it as evidence.

Furthering the inquiry, I took statements, from which I was satisfied that the persons who had been arrested knew something about the crime, and consequently I interviewed them with the Marshal of the Carabinieri, Santeramo, I examined their clothing and found on BITELLI a blood stained shirt, which was taken from him and kept for evidence. The other persons had nothing incriminating in this respect on them.

I informed them separately through the medium of an Official Interpreter, clearly who I was, and that I had been making inquiries into the death of a soldier on the evening of the 14th March, and as a result of these inquiries I was satisfied they could tell me something about how he met his death. I cautioned each of them, and they volunteered to make statements, which I took down in English, and which were read over in Italian to them, and signed.

In the statements taken it will be seen that the GIAMPIETRUZZI family blames BITETTI, while he in turn, blames the family, which is evident that they all had a part in the offence.

I interviewed also the boy mentioned in HARLAND's statement MARCHESE Vito, Via Monsignor Giove 59, Santeramo, who briefly said the taller of the two soldiers hit the old man on the face with a weight, and seeing this he ran off and saw no more.

Inquiries were also made at Nr. 12 Via Canova, where it is alleged BITETTI took refuge when chased by the sentry. I was informed he was not a relative, nor known there, and had obviously forced his way into the house to escape capture.

It is possible that a grudge may be the motive of this crime as one of the GIAMPIETRUZZI Brothers, Giuseppe lost his wife and family during an air carried out by the British, and he is said to have brooded a good deal since.

He is very friendly with BITETTI, who if the remark passed to the HARLAND brothers is true, is not too friendly disposed to the Allied cause.

H.Q. Taranto
20 March, 1944

C.S.M.
67th S.I.S. C.M. Police.

Note.

There are 10 witnesses.

GIAMPIETRUZZI Giuseppe gives the only real evidence - his statement:

"I saw BITETTI strike the British Soldier with the stone, and he died. BITETTI struck the soldier on the head".

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