

785016

ACC

10000/142/801

CASES AT
DEC. 1944

2527

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

2/801

CASES AT BARI, STANDING COURTS, (OTHER THAN AMN. CASES)
DEC. 1944 - FEB. 1945

V.P.C.S.

3

The attached case relates to the wounding, by shot gun, of (look at) Gordon Wilkinson, which appears. It is a reasonable presumption that Wilkinson was behaving improperly, but in the evidence (Wilkinson) of the accused's father, who called out 18th accused, he was doing nothing except standing outside looking. The accused was not, apparently, given a statement, but it appears that there is a strong prima facie case of unlawful wounding.

It remains a question of policy whether to try the case in A21 Court. It is suggested at one place that Wilkinson may be blinded. Apart from this, the case is not very serious. There is no doubt that in future incidents will be able to try such cases. However, for the moment, I see no

reason why the case should not be tried in an A21 Court.

and I so recommend

W. J. C.
S.C.A.

4

13 Feb 68

Lead.

At 10:00 AM. It is believed that the car is with very serious
may be blinded. Apart from this the car is with very serious
There is no doubt that in future incidents will be able to
they such cases.
However, for the incident, (see no
reason why the car should not be tried in an Air Court
and no recommendation

13 Feb 45

4

W. J. C. C.
S. J. C.

Legal.
Application for a Court to be tried before
an Air. G. Court authorised.
S. J. C. C.
for C.C.

13 Feb 45

PP. C.A.S.

with reference to attached application (am. & opinion that

Ardino should be tried by an Att. Gen.

Scorsia & on should understandly be tried by an Att. Gen.

except for their age. Italian courts are much better

equipped to handle juveniles, and Italian should do

so in this case.

Nicola should be tried by an Att. Gen., in view of the age

was by him.

There is no necessity to distinguish between Superior & General

Court in the above. The Court need not consist of 3 members.

~~Widely on~~
D.C.A.

(2)

To legal

28/12/44.

1. I agree that the cases of Ardino & Nicola should

be tried in an Am. G. Court.

2. I have read the case of Scorsia & am carefully

Court in the above. The Court need not consider if it were

~~unduly~~
~~con-~~
~~sidered.~~

26 Apr 44

(2)

To legal

28/12/44.

1. I agree that the cases of Ardino & Privitera should be tried in an App. & Court.
2. I have read the case of Scorscia & was carefully & have come to the conclusion that in view of the series of premeditated attacks on an allied soldier by these persons they should also be tried in an App. Court notwithstanding their youth.
3. Please instruct Southern Region accordingly. The accused will of course be tried before one of the Courts already constituted in the Bari Zone & not before a specially constituted general Court.

~~W. R. H. P. J. T. A.~~
G. P.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

7A

AC/4129/28/L.

WEB/ap.
15 February 1945

SUBJECT : Case of FATIGATO Pasquale.

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

1. V.P., CA Sec. has authorized the holding of an Allied Military Court to hear the case of FATIGATO Pasquale. The case should be heard in a Superior Court.

2. A suggested Charge Sheet is attached. Please see note on English text.

3. File returned herewith.

By command of Rear Admiral STONE:

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

16

2 Incls:

Incl. 1 - Charge Sheet

Incl. 2 - Your file.

(7B)

Pasquale PATIGATO, son of Sebastiano.

charged

with : Aggravated personal injury committed with a weapon (Arts. 582, 583 and 585 Penal Code) in that he at APRAGOLA (Naples), on the 15th of October 1944 at about 2200 hours, did discharge a shot gun at No. 2739124 Gdsm. WILKINSON, Welsh Guards, hitting him in the face with buck shot and thus causing him a severe injury to his eyes ...

(N.B: The evidence is not complete. The charge should be modified, if the injury has caused incapacity to attend to ordinary duty for a period exceeding 40 days or permanent weakening of sight (Art. 583 -1 -2) or permanent disfigurement of the face (Art. 583- B-4)).

Note:

- (a) The penalty for personal injury is from 3 months to 3 years (Art. 582 Penal Code).
If the personal injury is grave (Art. 583 Penal Code), personal servitude from 3 to 7 years shall be inflicted. In any case, the penalty shall be increased by up to one third as the act has been committed with a weapon (Art. 585 Penal Code).
- (b) (Art. 697) - imprisonment up to 4 months and fine up to 3000 Lire.
- (bb) (Art. 698) - imprisonment for not less than 3 months or a fine of not less than 1,000 lire.

(70)

PASQUALE PATIGATO 61 Sebastianoaccusato

- di : (a) lesione personale aggravata, commessa con arma (Art. 582, 583 e 585 C.P.) per avere in Afragola (NAPOLI), il 15 Ottobre 1944 alle ore 22 circa, sparato una fucilata contro il militare Alleato Gdsm. WILKINSON, Welsh Guards, No. 2739124, colpendolo al viso con una scarica di pallini e così' cagionandogli una grave lesione agli occhi

14

4129/28

(6A)

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

L-3044

8 February 1945

SUBJECT: Alleged wounding of 2739124 Gdsm. Wilkinson P.
Guelsh Guards by Fatagito Pasquale

TO : Chief Legal Advisor, Legal Sub-Commission,
Allied Commission, HQ, CMF.

1. I attach hereto the papers in the abovementioned case.

2. As the alleged offence took place outside the A.M.G. area of Naples Commune I shall be pleased if you will authorize its trial by an Allied Military Court.

3. I am of opinion that the existing permanent Superior Military Court sitting in Naples has sufficient jurisdiction to do adequate justice in this case.

For the Regional Commissioner:

L. F. Dawson

13

LFD/mo

L.F. DAWSON,
Lieut. Colonel, G.L.,
Reg. Legal Officer.

ENCLS-
Report SIB69/A/45/597 d/d 31 Jan. '45
with report of arrest and statements.

LEGAL SUB COMMISSION	
CLO	
DCLO	✓
Chief Counsel	
CJO	
Italian Section	
CL RKS	
10 FEB 1945	

HEADQUARTERS ALLIED COMMISSION
AND 394
LEGAL SUB-COMMISSION

AC/4129/28/L.

29 December 1944.

SUBJECT : Cases for Allied Military Courts.

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

1. Reference your L-3046 of 18 and 22 December 1944. I return the papers in the following cases :-

- (a) GERASOLA, Pasquale.
- (b) ARDINO, Domenico.
- (c) BOBECIA, Angelo. and others.
- (d) NICOLA, Emanuele.

2. The Vice President, Civil Affairs Section, has considered all these cases and in particular the case of GERASOLA.

3. The Vice President directs that GERASOLA be tried by one of the existing courts in Bari and not by a General Court. The charge can be framed on "Furto Aggravato".

4. The Vice President authorises the trial of the remaining cases in an Allied Military Court. It is agreed that these cases do not require a General Court and they can, therefore, be dealt with by one of the existing courts. Suggested charge sheets are attached for these three cases.

BY Command of Rear Admiral STONE.

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

WEB/wow.

ARDINO Domenico, son of Rocco, charged with

- (a) fighting (Art. 588 Penal Code) in that he did participate in the evening of 6 November 1944 at Bari in a fight which ~~has~~ developed in a public place located at 72 Via Marchese Mondrone and in which the British soldier George PLEASER No. 997447 received personal injury.
- (b) causing aggravated personal injury (Art. 582 and Art. 61 No. 1 with reference to Art. 585 e 577 No. 4) in that he did under the same circumstances of time and place as in para (a), for futile motives, inflict upon the aforesaid British soldier George PLEASER No. 997447 a scalp wound by hitting him with a pickaxe.

ARDINO Domenico di Rocco
imputato di

- a) rissa (art. 583 C.I.) per avere per colpito la sera del 6 Novembre 1944 in Bari ad una rissa accesa nel pubblico locale sito al N°. 72 di Via Marchese Montrone e nella quale il militare britannico GEORGE FLETCHER N°. 957447 ebbe a riportare lesione personale.
- b) lesione personale aggravata (art. 582 e art. 61 N°. 1 in riferimento agli art. 546 e 577 N°. 4) per avere nelle stesse circostanze di tempo e di luogo di cui al capo a), per futili motivi, cagionato al predetto militare britannico GEORGE FLETCHER N°. 957447 colpendolo con un piccone una ferita al cuoio capelluto.

DI SCOSIA Angelo son of Angelo
DI SCOSIA Angelo son of Vito
DE PALO Michele son of Antonio

charged with

- (a) robbery (Art. 528 para C, No.1, Art. 61 No.5 and 7) in that they did on 30 November 1944 at Giovinazzo, for the purpose of procuring for themselves an unjust gain, take possession of 6000 Lire in bank notes abstracting them from the British soldier B.HATCROFT No. 14201408 by means of violence committed against him, taking advantage of the momentary state of unconsciousness caused in the said soldier by blows inflicted upon him and of a solitary place, and causing to the damaged party a property loss of considerable gravity.
- (b) aggravated personal injury (Art. 582 and Art. 61 No.1 in relation with Art. 585 and 577 No. 4) in that they did under the same circumstances of time and place as set out under (a) above inflict various wounds on the face of the British soldier B. HATCROFT No. 14201408 acting for base motives i.e. robbery.

DI SCOSCIA Angelo di Angelo
DI SCOSCIA Angelo di Vito
DE PALO Michele fa Antonio
imputati di

- a) rapina (art. 628 capoverso c e N°. 1, art. 61 N°. 5 e 7) per essersi il 30 Novembre 1944 in Giovinazzo impossessati, allo scopo di trarne ingiusto profitto, di L. 6000 in banconote sottraendoli al militare britannico S. HATCHOTT N°. 14201408 mediante violenza sullo stesso, e traendo vantaggio dallo stato di momentanea incoscienza provocato nel predetto militare dalle percosse inflitte e dal luogo solitario, e causando alla persona offesa un danno patrimoniale di rilevante entità.
- b) lesione personale aggravata (art. 582 e art. 61 N°. 1 in relazione all'art. 585 e 577 N°. 4) per avere nelle stesse circostanze di tempo e di luogo di cui al capo a) prodotto varie ferite al viso al militare britannico S. HATCHOTT N°. 14201408 agendo per abietto motivo - rapina -.

NICOLI Emanuele son of Salvatore charged with

- (a) fight pursuant to Art. 588 of the Penal Code in that he on the 3rd of October 1944 at about 0130 A.M. in Erchie did take part in a fight in which 7/5 Francis J. SMITH and Pfc. Chen Hoy received personal injuries
- (b) causing aggravated personal injuries pursuant to Art. 582, 61 No. 5 Art. 585 in relation with Art. 577 No. 3 and 4 with reference to Art. 61 No. 1 of the Penal Code in that he under the same circumstances of place and time ^{as} in para (a) acting for futile motives did cause personal injuries to Francis J. SMITH and Pfc Chen Hoy taking advantage of the night time by hitting the said two persons with an axe which he with premeditation had brought from his home for this purpose.
- (c) unlawful carrying of arms pursuant to Art. 699 with reference to Art. 585 No. 2 of the Penal Code and to Art. 42 of the Public Safety Law-Consolidated Text- approved by R. Decree No. 773 of 18 June 1951 in that he under the same circumstances of time and place as under (a) did carry outside his dwelling of the appurtenances thereof, without a justified motive, a axe that is a tool apt to cause injury, the carrying of which without such motive is prohibited by law.

NOTE : Should it ultimately appear that the injury is as grave as contemplated in Art. 583 Penal Code further aggravating circumstances set out in this Article may be applied.

NICOLI Emanuele di Salvatore
imputato di

- a) rissa (art. 588 C.P.) per avere il 3 ottobre 1944 circa le ore 1.30 antimeridiane in Erchie preso parte ad una rissa nella quale i militari americani FRANCIS J. SMITH e CHEN HOY riportavano lesioni personali.
- b) lesioni personali aggravate (art. 582, 61 N° 5, 61 N° 1 in relazione agli art. 585 e 577 N° 4, e art. 577 N° 3 C.P.), per avere nelle stesse circostanze di tempo e di luogo di cui al capo a), agendo per futili motivi, causato lesioni personali ai predetti militari americani FRANCIS J. SMITH e CHEN HOY, approfittando del tempo di notte, colpendo le predette due persone con un'ascia che, con premeditazione, aveva portato da casa a tale scopo.
- c) porto abusivo di armi (art. 699 C.P. in relazione all'art. 585 N° 2 C.P. e all'art. 42 del T.U. della legge sulla Pubblica Sicurezza approvato con R.D. 18.6.1931 N° 773) per avere nelle stesse circostanze di tempo e di luogo di cui al capo a) portato fuori della propria abitazione e dalle appartenenze di essa, senza giustificato motivo, un'ascia, strumento da taglio atto ad offendere, il cui porto senza tale motivo è vietato dalla legge.

✓
4129/b

4A

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

L-3046

22 December 1944

SUBJECT: Cases of -

1. ARDINO, Domenico ✓
2. SCOSCIA, Angelo & (3) others 32
3. NICCOLI, Emmanuele

TO : Chief Legal Advisor, Legal Sub-Commission, AC, HQ.

1. I forward herewith the papers in the a/m three cases.
2. ALL these cases involve assaults of some seriousness upon personnel of the Allied Armed Forces and should, in my opinion, be tried by an Allied Military Court.
3. Subject to what is said below I do not feel that I am justified in asking that a General Military Court be convened to try each of these cases since I am of opinion that, upon the evidence before me, a Superior Military Court could adequately deal with them.
4. As, however, under the terms of your letter No. ACC/4173/1/L dated 12 November 1944 none of these cases falls within the jurisdiction of the Superior Military Courts now sitting in a portion of Bari Zone, I am unable to order that they be tried in those Courts.
5. I accordingly seek authority to have the three cases here under consideration tried in a Superior Court already constituted and sitting in a portion of the Bari Zone.
6. If you are unable to grant this authority then I shall be glad if you will sanction the convening of a General Military Court to try the cases.

5

7. You will observe that in two of the cases a pickaxe and an axe were used upon the troops while the evidence in the matter of Pte Hatercroft reveals a serious case of robbery.

LFD/mo

L. F. Dawson

L.F. DAWSON,
Lieut.Colonel, G.I.,
Reg.legal Officer.

ENCLOS-
3 files.

REG. SUB-COMMISSION	
CIO	
CCO	
Chief Counsel	
CJO	
Information Section	
CL RKS	

3A

4129/6

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

L-3046

18 December 1944

SUBJECT: Case of CERASOLA Pasquale.

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

1. I am again submitting the report of investigation regarding the request for a General Military Court for the trial of the above subject. Major Carpenter has fully set forth the argument as to the reasons why subject should be tried before a General Court. This same case was recently submitted to your HQ. and a request for a General Court was denied. In your letter of transmittal you stated that the case could again be resubmitted and the same would be referred to Brigadier Upjohn for decision.

For the Regional Commissioner:

John ... refer

ETK/RY

LEGAL SUB-COMMISSION	
CLO	
CCO	
Chief Counsel	
CIO	
Region	
WKS	
19 DEC 1944	
19 DEC 1944	

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

DCLA

- ① I concur that no reasonable court would give over 10 years: ∴ a General Ct is NOT necessary
- ② As to the Ricci case, quoted by B-CARPENTER: (as it is distinguishable, being a case of repeated theft: & (b) it has NOT been reviewed. K 20 Dec.

2A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/6/L.

7 December 1944.

SUBJECT : Case of CERRICOLA Masquale.

TO : Regional Commission (attn. Regional
Legal Officer), SOUTHERN REGION.

1. Reference your L-3046 of 5 December 1944. I agree that the offence is serious but I cannot conceive that any court should or would award more than 10 years imprisonment for the offence.
2. I suggest that the case be referred by you to your standing Superior Court in BARI for trial on a charge of double aggravated theft.
3. I have not submitted the papers to Brigadier Upjohn who is away. If, however, you feel strongly that the case should be tried by a General Court and return the documents to me I will submit them to Brigadier Upjohn but I shall recommend strongly that the application be refused.
4. Documents enclosed herewith.

BY command of Commodore STONE.

Encs.

WEB/vsw.

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

2

4129/67

Amend ent
v file

(1A)

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

L-3046

5 December 1944

SUBJECT: Application for General Military Court.

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

1. I am attaching hereto request and report of investigation in the case of A.M.G. vs. CERASOLA Pasquale. Major Boyd-Carpenter feels that by reason of the importance of this case that the same should be presented to an Allied General Military Court. The Army Air Force is also interested in this case and is of the opinion that the same should be tried before an Allied Court.

For the Regional Commissioner:

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

ETK/pv

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CIO

Italian Section

CLERKS

DEC 10 1944

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