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CASE OF VIT
NOV. 1945 -

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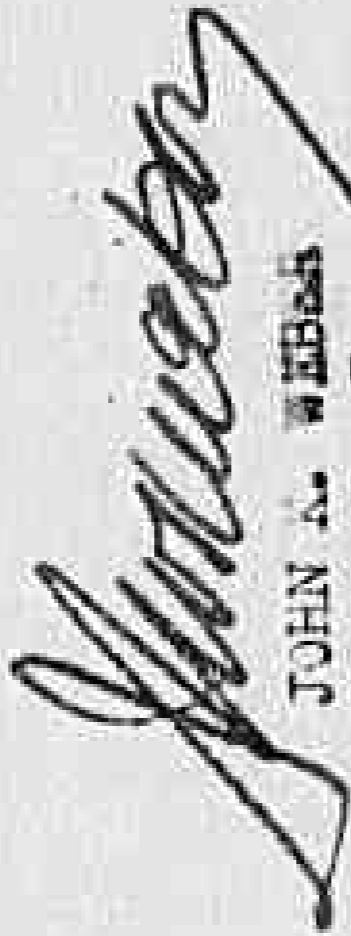
CASE OF VITALE BROTHERS (HOMICIDE OF U.S. SOLDIER)
NOV. 1945 - AUG. 1946

V.P. CA Section,

1.
Please see letter at LA of 19 November 1945
Letter at 24 of 19 January 1946
Letter at 34 for perusal.

Legal

8 February 1946



JOHN A. WEBER
Colonel, Inf.
Chief Legal Advisor.

2.

Ex. Cont.

Req. attached top folio permission is requested
by the three Vitale Brothers by A.M.G. Cont. - the
being constituted as set out in the final paragraph.
Brig. Carr had agreed to this procedure but had
asked the original application to be re-examined.
Please give your approval. Please also see for 513 para 18.
of file 6/17 13/14.

J. Weber, Maj
Col. Section.

11 Feb.

11/2

3.

Large P.C.
Go ahead with Am & Cont.
J. Weber, Maj
Col. Section

14 Feb 46

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FILB

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

9A

AC/4129/44/L

AP/ns
16 August 1946

Sig. Avv. Raoul IUSENA
Largo Notari 2,

M I L A N O

Si restituisce la nota del 31 luglio 1946
con preghiera di inoltrarla al Comando che ha ese-
guito il sequestro.

G.G. HANNABORD,
Lt.Colonel,
Deputy Chief Legal Advisor.

Subject: Trial against SILVAGNI GIOVANNI,
pending before the Regional Security Office
of Milan (May. Fleetwood).

At the time of Silvagni's arrest in November 1945, ordered by the Allied Command of Milan, all the items which were located on the truck had been sequestered. A great part of said stuff was the property of Mrs Carocci Arena and of her two children under age, who lived together with Silvagni.

It is only since a little time ago that said Allied Command of Milan ordered that almost all the luggage and personal items be returned. Mrs Carocci entrusted "avvocato" Raoul Sena to inform the Command that several items which were in the suit-cases and in the trunks have not been returned, and Mrs Carocci makes a reserve of her rights. ^{BB} items which were not returned

Children under age, and that
It is only since a little time ago that
Sard Allied Command of Milan ordered that almost
all the luggage and personal items be returned.
Mrs Carocci entrusted "avvocato" Raul Lu-
Sena to inform Sard Command that several
items which were in the suit-cases and in the
trunks have not been returned, and Mrs Ca-
rocci makes a reserve of her rights. ^{BB}
A list of items which were not returned
to Mrs Carocci is herewith enclosed.

Signed:

Avv. Lusena

ENTER
and
FLOATHEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSIONEN
an
FLO

PA

AC/4083/1/L

LJG/rs

18 July 1946.

SUBJECT : VITALE Brothers Case Record.
(Case against PASSARO Raffaele, CARBONE
Vincenzo and IOVINO Donato under Italian
law).

TO : Senior Legal Officer, Headquarters
NAPLES Liaison Group, AC, APO 794.

1. Reference your letter L - 8101 dated
9 July 1946, subject as above,
2. Receipt of the record in this case
is acknowledged.

By command of Rear Admiral STONE :

ENTER
and
FLOATL.J. GILBRIDE,
Maj., IGB,
for Chief Legal Advisor.

FILE

9/29/45

HEADQUARTERS
NAPLES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 794

4A

L-8101

15 July 1946

SUBJECT : Vitale Brothers case record.
(Case against PASSARO Raffaele, CARBONE Vincenzo,
and IOVINO Donato under Italian law).

TO : Chief Legal Adviser, Headquarters,
Allied Commission, Legal Sub Commission.
APO 794.

1. Reference our letter L-8101 dated 9 July 1946.
2. Herewith enclosed is C.I.D. Report (Pres. Ex. E) relative to the above case which had been transmitted on 17 April 1946 to Procuratore del Regno, Tribunale of Naples and which has been this date returned to this office.

For the Chief Liaison Officer.

Sgd.:

G.W. BROWN,
Captain,
Liaison Officer.1 Incl.
MS

4129/48

FILE

C O P Y

HEADQUARTERS
NAPLES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 794

GA

L-8101

9 July 1946

SUBJECT : Vitale Brothers case record
(Case against PASSARO Raffaele, CARBONE Vincenzo
and IOVINO Donato under Italian law.)

TO : Chief Legal Adviser, Headquarters,
Allied Commission, Legal Sub Commission,
APO 794, U.S. Army.

1. Reference your letter on Vitale Bros. AC/4083/1/L
12 April 1946, and verbal conversation of this officer with
Chief Legal Adviser on 1 July 1946.

2. Returned herewith is the case record of Vitale
Brothers. Under the authority of the Chief Counsel the portions
of the record necessary for the prosecution of PASSARO, CARBONE
and IOVINO, were transmitted by my letter, L-8101, Naples
Liaison Group, Legal Division, dated 17 April 1946, to Procura-
tore del Regno, Tribunale of Naples.

3. Attached to the record is a copy of report of C.I.D.,
Southern District, PBS 45-206, which were found in the files
of this office.

4. I have been advised that the case against PASSARO,
CARBONE and IOVINO has been referred for jurisdiction to the
Tribunale of Santa Maria Capua Vetere (near Naples).

5. It is requested that receipt of this record be
acknowledged.

For the Chief Liaison Officer.

6/

Sgd.

ROSARIO A. GAZIANO,
Captain, Infantry,
Senior Legal Officer.

Incl.: 1 Vitale Brothers (7) case record,
including copy of report of CID
PBS 45-206, dated 22 October 1945
RAG/ms

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

4129/45
AC/4083/I/L

TW/ns
12 April 1946.

SUBJECT : VITALE Bros.

TO : Chief Liaison Officer (Attn: S.L.O.)
NAPLES.

1. Forwarded herewith case record of VITALE Bros.
2. As soon as you have made copies of any material which may be useful to you, will you please return the file.

By command of Rear Admiral STONE :

LESTER C. BERN,
Captain, Infantry,
for Chief Legal Advisor.

Incl.: Case record.

File
4083/1

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

SUBJECT : Vitale bros. Case
TO : Chief Legal Officer, A.C.

1. Forwarded for review.

Frank L. Vecchiolla
Maj. JAGD.

HEADQUARTERS
SOUTHERN DISTRICT PENINSULAR BASE SECTION
Office of the Provost Marshal
Criminal Investigations Division
APO 782 US Army

8 March 1946

SUBJECT: CID Case, SD, PBS, 45-206.

TO : Capt. Graziano, Liaison Officer, AMG.

1. The two Agents who investigated case 45-206 are no longer available as they have been redeployed to the U.S.A.
2. Vice-Brigadier GERVANI Giovanni of this office who is still present for duty helped the afore-mentioned Agents investigate this case.
3. Others who know about this case are:
 - a) PASSERIS Raffaele fu Vincenzo, #21 Via del Cassano, Capodichino.
 - b) CARBONE Vincenzo fu Carmine, #134 Via Espremo Galante, Capodichino.
 - c) IOVINO Donato fu Leonardo, #15 Via Principessa Margherita, Nola.
 - d) DE MARTINO Luigi, #39 Via Madonna delle Grazie, Nola.
 - e) GIULIANI Alfonso, #39 Via Tommaso Vitale, Nola.

Frank T. Garro
FRANK T. GARRO,
Captain, CMF,
Chief Agent, CID.

4/17/45

HEADQUARTERS
NAPIES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 394

(4B)

I-3020

4 March 1946

SUBJECT: VITALE brothers; Homicide case.

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Subcommittee,
APO 394, U.S. Army.

1. Forwarded herewith is a petition filed by
Avv. Pasquale Petrolillo, received this date, on behalf
of his clients, Salvatore, Carmine and Antonio VITALE,
detained in prison without trial since July 1945.
Avv. Petrolillo has been informed on 27 February that
this case will be heard by an Allied General Military
Court as soon as possible.

For the Chief Liaison Officer.

Rosario A. Gagliano
ROSARIO A. GAGLIANO
Captain, Infantry
Senior Legal Officer.

Incl. 1. Petition of Avv. Petrolillo, 1 March 1946.

→

ALLIED COMMISSION
CLO
DCLO
Chief Counsel
CJO
Italian Liaison
CLERK
6 March 46

3-7/46

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Avv. Prof. PASQUALE PETROLILLO
NAPOLI

PERO A S. TERESA. 3

Telefono 90470

Napoli

li

1 marzo 1946

194

On. Ufficio Legale presso
la Corte Militare Alleata di
N A P O L I

Ripetendo un motivo già svolto presso ~~l'Ufficio~~ l'Ufficio Legale della Sub-commissione Alleata di Roma il sottoscritto avvocato nello interesse dei suoi raccomandati VITALE Salvatore, Carmine ed Antonio contro i quali è processo chiedo che venga concessa la

e s c a r c e r a z i o n e

dei suddetti detenuti.

Sta di fatto che i Vitale si trovano in istato di detenzione dal luglio del /945 per essere stati investiti dal puro sospetto di aver provocato la morte di un soldato di colore alleato facente parte di una banda di rapinatori che infestava il fondo dei contadini Vitale.

Ora a parte la considerazione che laddove il semplice sospetto sopra accennato dovesse assumere consistenza i Vitale dovrebbero beneficiare della esimente della responsabilità per avere agito instato di legittima difesa, è canone fondamentale di tutte le legislazioni e SEGNOTAMENTE DI QUELLE DELLE GRANDI DEMOCRAZIE OCCIDENTALI SECONDO QUANTO PUO' ANCHE ESSERE RICAIVATO DALLO SPIRITO E DALLA LETTERA DEI BANDI DEL A.M.G. che la detenzione preventiva N O N possa essere protratta lungamente senza che la responsabilità degli imputati venga accertata dalla decisione del magistrato.

Nel caso in esame i Vitale che trovansi in carcere da ben O T T O mesi appaiono davvero meritevoli dell'invocato beneficio onde il sottoscritto avvocato ripete con questa istanza nel loro interesse la richiesta della:

E S C A R C E R A Z I O N E PER ECCESSIVA DURATA DELLA DETENZIONE PREVENTIVA.

Con osservanza

(Avv. Prof. Pasquale Petrolillo)

Pasquale Petrolillo

3A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mda.

AC/4129/45/L.

8 February 1946.

SUBJECT : Homicide of U.S. soldier (Accused Italian civilians VITALE Carmine, Antonio, and Salvatore).

TO : V.P. C.A. Section.

1. On 19 November 1945, there was sent to this office by the Naples Legal Officer a copy of a C.I.D. report of Investigation relating to the killing of an American negro soldier named Pvt. John A. Foster and the wounding of an Italian civilian named De Martino, who died four days latter from wounds received in the incident.

2. The C.I.D. report recommended that those accused of the offense, to wit the three Vitale brothers "be tried for the homicide of Pvt. John A. Foster." The report did NOT recommend that such trial be by an AMG Court. In sending the report to us, the covering letter merely said "Forwarded". Under the circumstances, unfortunately, the report was considered as for our information only, and was thereafter filed as such. See Flag 1 A.


3. It now develops that the three accused Vitale brothers are being held in jail awaiting the decision on whether they will be tried by A.M.G. or Italian Courts. It is not clear if the place of the crime was turned-back territory at the time of the offense; at any rate, since 31 December 1945, the territory has been returned to the Italian Government. See Flag 2 A.

4. The facts are relatively simple. Three U.S. negro soldiers AWOL from their organization and five Italian civilians went to Nola on the night of 16 April 1945 to rob a rich farmer. This designed robbery did not take place, but in lieu thereof a large amount of goods were stolen from the farm premises of one Francesco Vitale, which the eight highwaymen (of which the two deceased were parties) loaded on a cart drawn by a horse, and were proceeding down the road in the early morning hours before day light when gunfire from off the road struck Pvt. John A. Foster, killing him instantly and wounded 36

De Martino, resulting in his death four days later.

5. It appears from the record that a series of robberies had been committed in the community, and one of the three accused was on the alert; seeing the Vitale premises being robbed, he went to the nearby village and aroused the other two Vitale accused, and the three returned to the Vitale farmhouse at the time the eight highwaymen were leaving with the loot on the cart, which they followed a short distance when without warning two of the Vitale defendants fired on the eight robbers, resulting in the death of Foster and De Martino.

6. The facts as disclosed by the record do not warrant the infliction of the death penalty on the three accused. Indeed, it would not be remiss for a Court to find the three accused "Not Guilty". If such a finding is warranted, it should unhesitatingly be entered as the judgment of the Court. The question arises, would an Italian Court feel equal to such task because an Allied soldier had been slain? After much thought, it is my conclusion that here is a case which should be tried by an AMG Court consisting of a judicial officer furnished by A.C., and two lay members furnished Allied sources other than A.C., and preferably from P.B.S., so that if an acquittal is had, the matter comes to rest at once, and to the satisfaction of all concerned. This procedure would have been in order had the case been properly handled prior to 31 Dec 1945.


JOHN K. WEBER
Colonel, Infantry,
Chief Legal Advisor.

4129/45

2A

HEADQUARTERS
ALLIED COMMISSION
LIAISON OFFICE
LEGAL DIVISION
NAPLES

L - 3020

19 January 1946

SUBJECT: Homicide of U.S. soldier (Accused Italian civilians VITALE Carmine, Antonio, and Salvatore).

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

1. Forwarded herewith is petition of Avv. Pasquale Petrolillo, Naples.

2. The C.I.D. office advises me that the complete file report (file CID, Southern District, P.B.S. 45 - 206, 22 October 1945) was transmitted in middle of November 1945 to Legal Sub-Commission, Headquarters, Allied Commission, Rome.

3. An examination of the file copy of C.I.D. office discloses that 3 U.S. soldiers AWOL from their organization together with 5 Italian civilians went to Nola on 16 April 1945 to rob a rich farmer. They stole at Nola a large amount of goods from farmhouse Francesco Vitale, Nola. Three brothers fired their shotguns in the direction of the 8 thieves. One U.S. soldier (colored) died instantaneously, and De Martino Luigi, Italian civilian, a few days later.

4. The VITALE brothers, Carmine, Antonio and Salvatore, are in Poggioreale Prison, Naples, awaiting

→ CLO

DCLO

-1-

Chief Counsel

→ CJO

Italian

CL RKS

31 Jan 46

56

trial for the homicide of Pvt. John A. Foster.

5. It is requested that File No. CID, Southern District, P.B.S. 45 - 206, forwarded to Legal Sub-Commission, be returned to this office with decision on whether or not the case is to be turned over to the Italian judicial authorities. The C.I.D. have closed their file on this case.

For the Senior Liaison Officer.

Rosario A. Gaziano

ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

Incl. 1. Petition of Avv. Petrolillo.

RAG/eb

Avv. Prof. PASQUALE PETROLILLO

NAPOLI

VICO PERO A S. TERESA, 5

Telefono 30170

Napoli 23 gennaio 1946

UFFICIO LEGALE ALLEATO - Palazzo della Provincia

N A P O L I

Il sottoscritto avvocato espone quanto segue:

In data 15-11-1945 il processo penale a carico di VITALE Salvatore, Carmine ed Antonio, da Umitile, imputati di omicidio, fu trasmesso da Cotesto Ufficio al C.I.D. di Napoli e successivamente all'Ufficio Legale del 3° Headquarters Allied Commission di Roma in Via Veneto, palazzo delle Corporazioni.

A seguito del nostro interessamento il predetto ufficio di Roma ha manifestato l'opportunità che Cotesto Ufficio legale richieda direttamente all'Ufficio di Roma il processo perché esso sia rinvio a Napoli.

Pertanto il sottoscritto fa istanza perché tale aspirazione sia accolta con cortese sollecitudine, stante che gli imputati sono detenuti nel carcere di Poggioreale, di Napoli, da circa otto mesi.

Con osservanza.

Avv. Pasquale Petrolillo

Av. Prof. PASQUALE PETROLILLO

Vico Pero a S. Teresa, 5

Tel. 30970 - NAPOLI

LEGAL OFFICE by

HEADQUARTERS ALLIED COMMISSION

VIA VENETO

===== R O M E =====

The undersigned lawyer, in the interest of his clients VITALE SALVATORE, CARMINA and ANTONIO, the sons of VITALE FRANCESCO, from Cimitile (Naples) against whom a process takes place by this Office, expresses as much as follows:

In the month of April of 1945 an armed band of robbers succeeded in entering, by night, the tenement of propriety of Vitale in Cimitile (Naples).

The robbers, after having robbed many and rich things while tried to abandon the place of their criminal deeds, they were surprised and courageously faced by Vitale, the cultivators of his propriety who, furnished with guns, made a battle with the robbers only in order to defend them.

Many shots, came from the robbers but the proprietors defended themselves as they could.

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follows:

In the month of April of 1945 an armed band of robbers succeeded in entering, by night, the tenement of propriety of Vitale in Cimitile (Naples).

The robbers, after having robbed many and rich things while tried to abandon the place of their criminal deeds, they were surprised and courageously faced by Vitale, the cultivators of his propriety who, furnished with guns, made a battle with the robbers only in order to defend them.

Many shots, came from the robbers but the proprietors defended themselves as they could.

One of the band fell down mortally wounded but this was an allied soldier.

32

Although the corpse show a wound caused by a projectile of musket, an arm not used by Vitale, however they were arrested in July of 1945 and since then kept in prison waiting to be judged under the accusa of homicide.

Since then the three brothers Vitale are in the prison of Poggioreale in Naples while the process is by that Office of Allied Commission in Rome, and their defender has not succeeded in helping the three unhappy clients, on account of the circumstance of a process investigated in Rome for a fact happened here and the prosecuted are detained in

Naples!

It is clear that Vitale have acted only to defend their propriety threatened with an unjust action (robbery) and their absolution in the judgement is wished.

The actual justifiable do not mean to escape the judgement of justice, but they wish seen it, because the day when they will sit as prosecuted on the dock, that same day they will become accusers, the accusers of the robbers, who are the true authors of the tragedy.

The undersigned lawyer in the interest of his clients VITALE SALVATORE, CARMINE AND ANTONIO detained since SEVEN MONTHS in the prison of Poggioreale in Naples, asks to be granted the benefit of

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The undersigned lawyer in the interest of his clients VITALE SALVATORE, CARLINO AND ANTONIO detained since SEVEN MONTHS in the prison of Poggioreale in Naples, asks to be granted the benefit of

PROVISIONAL LIBERTY

for at least of

ACQUITTALE

on account of the excessive duration of the preventive detainment and this in waiting for the judgement.

Naples January 1946

Lawyer Professor
Pasquale Petrolillo

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PROVISIONAL LIBERTY

or at least of

ACQUITTAL

on account of the excessive duration of the preventive detainment and this in waiting for the judgement.

Naples January 1946

Lawyer Professor
Pasquale Petrolillo

J. Vito
Proprietary
di Petrolillo

Avv. Prof. PASQUALE PETROLILLO

Vico Pero a S. Teresa, 5

Tel. 30970 - NAPOLI

UFFICIO LEGALE presso

HEADQUARTERS ALLIED COMMISSION

VIA VENETO

R O M A

=====

Il sottoscritto avvocato nello interesse dei propri clienti VITALE SALVATORE, CARMINE ed ANTONIO di Francesco nativi di Cimitile(Napoli) contro i quali è in corso un procedimento penale presso codesto Ufficio espone quanto segue:

Nell'aprile dell'anno 1945 una banda armata di rapinatori riusciva ad introdursi nottetempo nel fondo di proprietà dei Vitale in territorio di Cimitile(Napoli).

I banditi, fatta buona scorta di preziosa refurtiva, si accingevano ad allontanarsi indisturbati dal teatro delle loro criminose gesta quando furono raggiunti dalle forze di polizia e coraggiosamente affrontati dai Vitale, molti dei quali muniti di fucili da caccia impegnarono con i delinquenti una battaglia nell'esercizio della legittima difesa.

Molte scariche di carabine partirono dal gruppo dei ladri mentre i contadini reagivano come potevano.

Durante lo scontro cadde colpito mortalmente un uomo facente parte della banda dei rapinatori e che purtroppo risultò essere un soldato di colore alleato.

natori riusciva ad introdursi nottetempo nel fondo di proprietà dei Vitale in territorio di Cimitile(Napoli).

I banditi, fatta buona scorta di preziosa refurtiva, si accingevano ad allontanarsi indisturbati dal teatro delle loro criminose gesta quando furono raggiunti== sorpresi e coraggiosamente affrontati dai Vitale, colti= vatori del fondo, i quali muniti di fucili da caccia im= pagnarono con i delinquenti una battaglia nell'esercizio della legittima difesa.

Molte scariche di carabine partirono dal gruppo dei ladri mentre i contadini reagivano come potevano.

Durante lo scontro cadde colpito mortalmente un uom^oo facente parte della banda dei rapinatori e che pur³ troppo risultò essere un soldato di colore alleato.

Ancorchè il cadavere dell'ucciso mostrasse una lesione provocata da un proiettile di moschetto, arma non usata dai contadini, tuttavia i Vitale vennero arrestati nel luglio del 1945 e da allora tenuti in carcere in attesa di essere rinviati a giudizio sotto la imputazione di omicidio.

Da quel lontano giorno i Vitale giacciono nel carcere

di Poggioreale in Napoli mentre il processo trovasi in= cardinato presso codesto Ufficio Legale della Commissione Alleata e non è riuscito al difensore, stando così le cose, di soccorrere i tre sventurati clienti, per la dura circostanza di un processo istruito a Roma per un fatto avvenuto nel Napoletano mentre gli imputati sono detenuti a Napoli!

Pare chiaro che i Vitale hanno agito in istato di leggittima difesa nella tutela del loro diritto di proprietà minacciato dalla altrui ingiusta azione (rapina) ed è auspicabile la loro assoluzione in giudizio. Gli attuali giudicabili non intendono sottrarsi al superiore criterio della giustizia ma anzi questo intervento sollecitano vivamente perchè, il giorno in cui essi si sederanno come imputati sul banco degli accusati, quello stesso giorno essi assumeranno la veste di accusatori, accusatori dei ladri e dei rapinatori che sono i veri autori della tragedia.

Per quanto sopra esposto il sottoscritto avvocato nello interesse dei suoi raccomandati Vitale Salvatore, Carmine ed Antonio detenuti da SETTE MESI nelle carceri di Poggioreale di Napoli chiede che venga concesso il beneficio della

L I B E R T A' P R O V V I S O R I A

auspicabile la loro assoluzione in giudizio. Gli attuali giudicabili non intendono sottrarsi al superiore criterio della giustizia ma anzi questo intervento sollecitano vivamente perché, il giorno in cui essi si siederanno come imputati sul banco degli accusati, quello stesso giorno essi assumeranno la veste di accusatori, accusatori del ladri e dei rapinatori che sono i veri autori della tragedia.

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LIBERTÀ, PROVVISORIA

o quanto meno della

ESCARCERAZIONE

per la eccessiva durata della detenzione preventiva e ciò in attesa di giudizio.

Napoli li gennaio 1946

Avv. Prof. Pasquale Petrolillo

Prof. Pasquale Petrolillo

4129/45

1A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
NAPLES COMMUNE
LEGAL DIVISION
APO 394

19 November 1945

SUBJECT: Case of Vitale brothers.

TO : Hq, Allied Commission, (Att:Legal Sub-Commission).

1. Forwarded.

For the Commissioner:

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	<i>On</i>
Italian Section	
CL RKS	
20 NOV 1945	

Carl C. Banno
CARL C. BANNO,
Capt., A.C.,
Senior Legal Officer.

51

for info

CONFIDENTIAL
HEADQUARTERS
MEDITERRANEAN THEATER OF OPERATIONS
OFFICE OF THE PROVOST MARSHAL GENERAL
CRIMINAL INVESTIGATION DIVISION
APO 512 - U. S. ARMY

This case originated at: Nola, Italy		Case No. CID, Southern District, PBB 45-206
Report made at: Naples, Italy	Date Forwarded: 22 October, 1945	Period for which made: 17 April - 8 Oct. 1945
Title: (Name[s] of accused or victim[s]) VITALE Salvatore VITALE Carmine VITALE Antonio		Character of case: (offense[s]) Burglary Homicide
<p>Synopsis of facts: On 17 April, 1945, around 1210 hours, the Duty Officer of Naples Police Station informed the Naples CID Office that a British soldier had found an American colored soldier, believed to be Pvt. John A. Foster, ASN 34065987, just off of the Avellino highway, in Nola. He had apparently died from head wounds.</p> <p>Investigation revealed that Foster, along with Pvt. Horace J. LaPoint and Pvt. Willie J. Terrell, all AWOLs from the 24th Repl. Depot, and 5 civilians, named CARBONE Vincenzo, PASSERO Raffaele, IOVINO Donato, GIULIANI Alfonso, and DE MARTINO Luigi went to Nola on the night of 16 April, 1945 with the primary intent of robbing a rich farmer. When this prearranged plan did not materialize all 8 of them proceeded to a farmhouse owned by VITALE Francesco, Via Bosco Fangola #10, Nola forced entry to the place and stole a considerable quantity of wine, potatoes, corn, wire, manure, etc., valued at approximately 27,450 lire.</p> <p>After the aforementioned goods were loaded onto a cart the 8 started back toward the town of Nola, moving along Via Bosco Fangola in a southerly direction. Three brothers, VITALE Salvatore, VITALE Francesco and VITALE Carmine, children of VITALE Francesco were hiding in the wheat field adjacent to the road and fired their shotguns in the direction of the 8, resulting in Foster's death, from a shotgun wound completely piercing his head. Death was instantaneous. Also, DE MARTINO was shot, same evening and died 4 days later.</p> <p>Pvts. Terrell and LaPoint were returned to the 24th Repl. Depot, and the 3 VITALE brothers are presently in the Prison, Naples, there to await trial for Foster's death.</p> <p>Case Closed.</p>		
Report made by: WM. B. HUTCHINSON, JR., Agent, CID. DENNIS J. BUTTIMORE, Agent, CID.		Do not write here
Approved and forwarded: <i>Frank T. Garro</i> FRANK T. GARRO, 1st Lt., CMP, Chief Agent, CID.		File Grade
		UNCLASSIFIED Distribution of Report: 3- TJA Pensouth, APO 782 1- Legal Officer i/c, AMG Naples Command 1- Central Prosecutor, AMG, Naples 1- PECO, MTOUSA, c/o Hqs CID APO 512 1- P.M., Pensouth, APO 782 1- U.S. Claims Commission, Region I, APO 782 1- File, CID, Naples.

DETAILS:

1. On 17 April, 1945, at 1210 hours, the Duty Officer of Naples Police Station informed the Naples CID Office that a British soldier connected with the 16th B.A.D. Nola, had found the dead body of a colored American soldier, believed to be Pvt. John A. FOSTER, ASN 34065987, just off of the Avellino Highway, about 1/2 miles from Mirigliano, the soldier apparently having died of head wounds. The undersigned agents were given the case for immediate investigation on the same date.

2. The undersigned along with Agent Jack R. Murdoch, CID Photographer, and GERMANI Giovanni, Vice-Brigadier of the Italian Carabinieri, proceeded directly to the Br. Control Station in Mirigliano, where the call had originated, from where they were directed to the approximate location of the body, arriving at the crime scene around 1400 hours. The body, of a matured negro, was found along Via Bosco Fangola, Nola, approximately 1 mile from the Naples Avellino Highway, closely guarded by a British soldier, Pvt. James Finney 14236045, R.A.O.C., 16 B.A.D. who had placed a piece of burlap bag over the head of the corpse to obscure it from public view. Pvt. Finney was questioned as to his knowledge of facts concerning the incident, and related in his statement (Incl. #1) dated 17 April, 1945 that around 0935 hours that same morning he had been working on some of the British ammunition stacks situated along Via Bosco Fangola, Nola, when he happened to notice a body lying at the left-hand (west) side of the road (coming from the Avellino Highway). Although he at first believed it to be merely an Italian resting himself, upon closer observation he found that it was apparently a negro American soldier. The person was lying on his back, clothed in pants, shirt and combat boots, and his hat under his head which was lying in a pool of blood. It was apparent that the negro had been wounded on the left and right sides of his head, and had bled profusely from these wounds. When Pvt. Finney found the negro he was already dead, and the blood on the ground, near his head, was beginning to dry around the edges. Finney stayed with the body from the time he found it until the undersigned arrived, and did not allow the corpse to be moved.

3. Agent Murdoch took three photographs (Exhibits 1, 2, and 3) of the body, from various angles, and one photograph (Exhibit #4) of a section of the clover field adjacent to the road and about 10 feet from the spot where the body laid, which was matted down as though there might have been a scuffle or someone had slept there. Examination of the body revealed that it was clad in a woolen O.D. shirt, which had 2 hash marks and four overseas stripes on the left sleeve, woolen O.D. trousers, cotton undershirt and underdrawers (both O.D. color), G.I. belt (1942 issue), pair of woolen socks (O.D. color), pair of combat boots, and a woolen overseas or garrison cap, minus braid, (O.D. color), lying under his head, near the nape of his neck. In the shirt pockets were found a forged enlisted man's pass (Exhibit #5) dated 16-19 April, and a brown A.C. Identification Card (Exhibit #6) (or passport), both of which were made out to Pvt. John A. Foster 34065987, 287th Repl. Co., 20th Repl. Bn. In his trouser pockets were found 10 Italian coins, a handkerchief (O.D. color), a G.I. necktie with the markings "T-7022", and an Identification Tag belonging to "JOHN A. FOSTER, 34065987, T-43-4 O, P", which was later turned over to Graves' Registration.

4. The negro's head was lying in a pool of thick blood, indicating that the body had apparently fallen at that spot, and bled profusely from the nose, ears, and a wound on either side of the head, said wounds being of the type caused by gun-shot. The right side of the body was covered with white dust from

the road, further indicating that when it first hit the ground it landed on that side and then rolled over on the back. Both hands were placed well into the trouser pockets, as shown in exhibits 1, 2, and 3. The right leg was crossed over the left leg, the right shoe resting over top of the left shoe, as indicated in exhibits 1, 2 and 3. The body was on the edge of the left-hand or west side of the road, going away from the Avellino Highway, with the head directed south toward said Highway and the feet in the opposite direction. Examination of the overseas hat (Exhibit #7) found under Foster's head disclosed a hole on either side, the aperture on the left side was in the "flap" part, while the aperture on the right side was just where the "flap" part joins the bottom edge of the hat. Agent John Krtiko, CID Laboratory Technician, also examined the hat and stated that the hole on the left side was the point of entrance, and the hole on the right side was the point of exit. Measurements of the diameter of the hole on the left side of the hat (point of entrance) indicated that the object which made the opening was approximately the size of a .45 caliber missile, the aperture at point of exit was ragged and torn.

5. Via Bosco Fangola, Nola, is a narrow dirty road running off of the Naples-Avellino Highway. The body was found at a point approximately 1 mile distant from said main thoroughfare (see map of crime scene, Exh. #8). All of the territory in the general vicinity where the body was found is tilled farmland, and except for several barns in the area, which are used as store houses for farm products and equipment, there are no permanent inhabitants living nearby. A careful search of the crime scene, conducted by the undersigned and the afore named VBrig. of the Carabinieri, disclosed that on the East side of the road, opposite from that where the body lay, diagonally (north-east) and about 50 feet distant therefrom, and approximately 6 feet off the road in an easterly direction in a wheat field, there were two places each about 2 feet square, and within 3 yards of each other, where the grain had been matted down. At one spot was found an empty shotgun shell, caliber .12 (Exhibit #9), and at the other spot was found another empty shotgun shell, caliber .16 (Exh. #10). Except for these 2 shotgun shells, no other evidence was found to serve as a clue as to what had happened and who had killed the deceased. The entire area was checked for any cartridge casings or expended bullets and the loose dirt on the road, within 10 feet of any part of the body, was sifted with close mesh-wire screening, with negative results. A few civilians were seen working in the nearby fields and they were questioned, but were unable to give any helpful information. A search of all barns and thatched huts in the vicinity also proved futile. Arrangements were made, with the assistance and cooperation of Lt. Chrystal, 16th B.A.D. (Br.) in Nola, to get the body to the 15th Medical Laboratory to have an autopsy performed. After which the undersigned apprised the Carabinieri of Nola of the facts of the case and asked their help in attempting to determine how, why and by whom the negro had been killed.

6. On the evening of 17 April, the 287th Repl. Co., 20th Repl. Bn., 24th Repl. Depot, was contacted and it was learned that a Pvt. John A. Foster, ASN 34065937 had been a member of that organization up to 13 April, on which date he was transferred to Co. "F", 13th Repl. Bn., 24th Repl. Depot.

7. On the morning of 18 April, 1945, an autopsy of Foster's body was performed at the 15th Medical Laboratory, by Capt. Leslie S. Jolliffe, pathologist. His diagnosis and protocol (Incl. #1) was that Foster had died from gunshot wound of the head. The wound of entrance, a circular hole 1.3 cms. in diameter with marked "beveling" of the inner table, is situated in the left occipital region at a point mid-way between the left ear lobe and the occipital protuberance, whereas the wound of exit, a lacerated wound 4.5 cms. x 1.5 cms., is situated in the right parietal region at a point mid-way between the superior border of the right helix and midline,

and three cms. behind the posterior border of the right helix. This latter wound is identical in shape and size with the "beveling" on the external surface. The brain itself is traversed from the left occipital to right parietal lobes by a widely lacerated tract, the bullet tract coursing from below on the left upwards and to the right at approximately a 30 degree angle and slightly forward. The extent of the fractures, brain tumefaction, and size of the perforated wounds of the skull suggest that the lethal missile was probably a .45 bullet. There was an absence of charring and powder residue around the wound of entrance. A brain alcohol test of the brain of Pvt. Foster, the deceased, was made on April 18, 1945 to determine the content of ethyl alcohol, but was found to be negative (See Incl.#3).

8. Later, on the morning of 18 April 1945, Foster's body was identified by a member of his former organization (287th Repl. Co.), after which it was removed to Graves Registration for burial.

9. In the afternoon of 18 April 1945 the Commanding Officer of the 287th Repl. Co. was contacted and an extract copy of Company morning report (Incl.#4) obtained, which indicated that Foster had been marked MIA from his organization as of 0630 hours, 13 April 1945, to the time he was found dead. Many members of the 287th Repl. Co., as well as personnel from Co. "X", 24th Repl. Depot, were interrogated by the undersigned in an effort to obtain any clue or information as to when, why, under what circumstances and with whom Foster happened to go to Nola. The only thing of any value procured from this procedure was that Foster was a very close friend of Pvt. Gerard Hall, a member of the 400th Repl. Co., 24th Repl. Depot. Hall was found to be a patient in the 262nd Sta. Hosp., Aversa. The only information of any significance obtained from him was that Foster was also friendly with another colored soldier, Horace La Point, both of whom went MIA from time to time, staying in the town of Capodichino. Subsequent questioning of other friends of Foster's revealed that he had another friend whom he associated with in Capodichino named Willie Terrell, a so-called "gangster" from the 400th Repl. Co. A check with the records of the 24th Repl. Depot disclosed that both Terrell and La Point had been MIA for several weeks. Photographs and descriptions of these men were obtained and distributed to Military Police units in the Naples area. A number of the residents of Capodichino were interrogated as to the whereabouts of Foster, La Point and Terrell. One girl in the neighborhood recognized Foster's picture and admitted that he was friendly with La Point and Terrell. However, these 3 were known to the inhabitants of the Town only as Big Jimmy (La Point), Little Jimmy (Foster), and Roberto (Terrell).

10. On or about 24 April 1945, Pvt. Horace J. La Point, ASN 38080987, 401st Repl. Co., 13th Bn., 24th Repl. Depot, was arrested and returned to his company by M.P.s where on 26th April 1945 he was sentenced to 6 months in the Stockade for being MIA. Immediately after the trial, on 26 April, La Point was released to the undersigned for questioning. He at first denied having any knowledge concerning Foster's death or the circumstances surrounding it. Finally, on 1 May 1945, La Point admitted that he had been with Foster when the latter was shot and killed in Nola, and on 2 May, 1945, La Point's story was reduced to writing (Incl.#5), the substance of which is as follows:

On 15 April 1945, La Point, Foster and 3 Italian civilians boarded a train in Naples, around 1700 hours, for Nola. La Point didn't know these civilians very well, except that one was nicknamed "Pasquale", (later identified as PASSECO Raffaele) who lived in Capodichino. Of the other two, one was about 29 years old, had long hair and three sores on his face (later identified as CARONE Vincenzo and herein after referred to by that name) and the other was a crippled old man of 40 years

or more (subsequently identified as IOVINO Donato, and hereinafter called by that name). The five of them were going to Nola to meet two friends of Iovino's who knew a man in Nola of considerable wealth whom they were planning to rob, and later split the proceeds 50-50. These five waited in the country-side surrounding Nola all that night, but Iovino's two friends never appeared. The next morning LaPoint, Foster, Passero and Carbone returned to Naples, leaving Iovino in Nola where they were all to meet again that evening. When the train arrived at Naples Passero was detained because he tried to evade paying the conductor a fare on the ground that he was an Italian soldier, while in fact he was not. That night, 16 April, 1945, around 1730 hours, La Point, Foster, Carbone, Passero and Willie Terrell took the train again from Naples and rode to Nola, arriving there around 1900 hours. Iovino met them at the railroad station about $\frac{1}{2}$ hour later and the 6 of them walked out towards a dirt road running off of the Naples-Avellino highway. They proceeded along the dirt road (known as Via Bosco Fangola) until they came to a bridge where they met one of Iovino's friends (later identified as Giuliani Alfonso, and hereinafter referred to by that name). These 7 walked beyond the bridge to the next cross-road where they waited for Iovino's other friend (later identified as DE MARTINO Luigi, and hereinafter called by that name). De Martino finally appeared around 2315 hours, with a horse and a two-wheeled cart. In the cart were a doublebarreled shotgun, an Italian rifle, and a gun which looked like a German machine gun. The shotgun was given to Passero along with some red shells; Giuliani took the so-called German machine gun with a clip of 5 thirty-caliber bullets in it; De Martino had the Italian rifle; Carbone carried a long knife and Iovino had a silver-plated .38 caliber revolver. According to La Point none of the 3 negroes were armed. After the horse was tied the 8 people proceeded along a very narrow dirt road (known as Via Antonio Del Duca) and when they reached the "third house on the right", La Point, Terrell, Foster and Passero went to the left of the house and hid in a clump of bushes, while the other 4 went up to the house. Twenty minutes later the four returned saying that no one was at home and they would have to return around 0530 hours. It was then about 0030 hours of the morning of 17 April and La Point, being hungry, told the cart driver, De Martino, to get him something to eat. Whereupon La Point, Foster, Terrell jumped into the wagon and De Martino drove off, ostensibly to get them some food. Due to the coldness of the air the colored soldiers laid on the bottom of the cart and covered themselves with a piece of canvas. After they had ridden about 45 minutes, La Point looked up to see where they were and found themselves in front of a large barn. The wagon stopped, and Foster, La Point and Terrell alighted and entered, finding Carbone, Passero, Iovino and Giuliani inside gathering up corn, potatoes and wine. These things were loaded onto the cart and all eight started off, turning onto Via Bosco Fangola in the direction of the Naples-Avellino highway. Carbone was leading the horse, walking at its right side; Passero was walking just behind the cart; Foster, Terrell, and LaPoint were behind Passero, LaPoint on the right, Terrell in the center and Foster on the left. Iovino was walking behind the negroes on the right side of the road; and De Martino and Giuliani were behind all of them, at the left side of the road. As they walked one was saying anything when suddenly there were two blasts in rapid succession, sounding like shotgun fire, at their feet. These shots came from across the road (on the left or east side) and behind the soldiers. Upon hearing this shooting Terrell, LaPoint, Passero and Iovino immediately jumped off the road, at the right-hand side, into a field of weeds. Carbone seemed to duck low but kept the horse. Iovino placed his hand over LaPoint's mouth to keep him from disclosing his position. About 4 or 5 seconds after the first 2 reports there was a 3rd shot from the left side of the road, which sounded like rifle fire, followed almost immediately by a 4th shot which sounded like the first two. A minute or so later two people, believed to be De Martino and Giuliani, came onto the road singing and passed by the spot where La Point, Terrell and Iovino were lying. After the two had walked about a block

they turned around and started back towards the spot where LaPoint et als, were concealed. But, just before they started back, Terrell had crawled up to the road looking for Foster, and found the latter stretched out along the right or West side of the road, dead, having been shot thru the head. Terrell and La Point quickly took off across the field, and at the same time Iovino and Passaro went off in another direction. On reaching the main highway Terrell and LaPoint caught a ride back to Naples. La Point said that all 3 of the negroes had been wearing their garrison caps down over their ears because it was cold. At no time during the night of 16 April or the morning of 17 April did LaPoint see or hear either Passaro or Iovino discharge any weapons they had been carrying. LaPoint related that the shooting occurred around 0200 or 0230 hours, on the morning of 17 April, and that Foster apparently died instantly. La Point was never compensated for his efforts in Nola. Further La Point was of the opinion that Foster was killed by either Giuliani or De Martino, who were walking behind the negroes and at their left where the shooting presumably came from; but at the time LaPoint made his statement it was not then known that the Vitale brothers had been hiding in the weeds nearby and had fired on them. LaPoint is now with the 3429th U.S. Trk., Co., APO 782.

11. Despite the fact that La Point did not know "Pasquale's" real name or home address when first questioned, the undersigned, thru checking the records of the Italian railroad, Garibaldi station, were able to locate him as one, living in Capodichino, who had failed to pay a fare on an incoming from Nola on 16 April, 1945. Passaro Raffaele (Pasquale) was found at his home, Via Del Cassano #21, Capodichino, and brought to the Naples CID Office on 29 April for interrogation. Passaro made a statement (Incl. #6) relating that he knew the 3 colored soldiers in question as "Little Jimmy", "Big Jimmy" and "Roberto". He had induced them to go to Nola at the suggestion of Carbone who had said that robbing civilians would be a lot easier if negroes were along because the civilians are afraid of colored soldiers. Passaro's story as to the events that occurred on the night of 15 April 1945 coincide with what La Point said, except that the former contended that Terrell had been along, also. The next morning, before leaving Nola, the colored soldiers protested to Iovino that they didn't like having their trip for nothing but Iovino told them not to worry and to return again that night. As to what took place on the night of 16 April and the morning of 17th, Passaro's story differs from LaPoint's in the following respects: Passaro said that De Martino and Giuliani did not meet the rest separately but that they both arrived at the country rendez-vous together, in a cart in which they had a double-barreled shotgun, an Italian army rifle (caliber 6.09), and an American rifle; Iovino being armed with his own pistol. The American rifle was given to Foster; La Point took the shotgun; and Terrell carried Iovino's weapon. According to Passaro when the 8 of them neared the house on Via Antonio Del Duca where they had intended robbing a rich man with only one arm, it was the 3 negroes and himself (Passaro) who went up to the place while the other 4 waited nearby. When entrance could not be gained, Passaro and the colored soldiers went back to where the others were hiding. At this time Carbone took the American rifle, Iovino took back his pistol, Giuliani was given the shotgun and De Martino was handed the Italian rifle. Passaro then goes on to say substantially the same things that LaPoint said about the stealing of the corn, wine and farm implements from the barn. However Passaro seemed a bit confused as to what happened after that, for in his original statement (Incl. #6) he said that after shots were fired at the 8 of them walking along Via Bosco Pangoia, Iovino and Giuliani returned about 20 shots in the direction from where the original shooting had come; and 30 minutes later there was more shooting about 500 yards away. On 3 May, 1945, Passaro requested that he be allowed to amend his original statement regarding the shooting incident, which he did (Incl. #7). His new version of what occurred was that after the 8 of them started back toward Nola,

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upon departing from the barn where the theft was committed, Carbone was leading the horse; Giuliani walked to the left of the cart; De Martino was walking in the field, about 50 feet in from the left side of the road; he (Passero) was behind the cart; after him came the 3 negroes with Terrell in the middle, Foster on his left and LaPoint to the right; and Iovino took up the rear. Just before the shooting started Giuliani wandered into the field close to De Martino, and it was these latter two who fired at the rest. During the interrogations of Passero it was apparent that the boy is not overly intelligent, and that his mind has been quite confused to what actually happened on the night in question, causing him to tell first one story and then another, and each time seemingly confident that what he recounted was the positive truth.

12. While the undersigned were trying to find Carbone, Iovino, De Martino, Giuliani and Terrell, although up to this time their actual names and addresses, with the exception of Terrell, were unknown, the Provost Marshal on the 24th Replacement Depot, on 12 May, 1945, informed the Naples CID Office that Terrell, 400th Repl. Co., 13th En., 24th Repl. Depot, had been apprehended and he was immediately turned over to the undersigned. After questioning Terrell a short time he volunteered to make a statement (Incl. #8) in which he related much the same facts as to what happened on the night of 16 April as La Point did, with the following exceptions:

The weapons carried that night were two shotguns, an Italian rifle, and a .32 caliber revolver. Carbone had a shotgun, Iovino had the revolver and the other shotgun and rifle were carried by De Martino and Giuliani. None of the remaining 4 were armed. Terrell admitted that he, Foster, LaPoint and Passero had gone up to the farmhouse on Via Antonio Del Luca, unarmed, but did not attempt to break in or steal anything. Further, after the cart had been filled and all 8 of them started back toward Nola, De Martino was leading the horse at its right side, Carbone and Giuliani were a short distance ahead of the cart and walking at the left of East side of the road; Iovino was behind the wagon; and after him came Foster on the right, then Terrell, then LaPoint and finally Passero, all four of whom were walking abreast of each other. Suddenly there was a loud blast of fire directed toward the latter 4, coming from the left or East side of the road and behind them. The noise sounded like two reports from shotguns both fired at the same time. Terrell immediately dropped to his knees and crawled off to the right into a field where he laid down next to LaPoint and Iovino. Just after Terrell hit the ground there was another shotgun blast, which seemed to come from the same place where the first two had been fired. Terrell heard Foster moan once or twice, and then two men, speaking in Italian, came along the road from the same direction the 8 had been travelling, stopped by Foster's body for a moment, and then continued on, singing. Although Terrell was unable to see or recognize these two Italians, he was of the opinion that they were Carbone and Giuliani, both of whom had gone into the field at the left side of the road and waited for the negroes to pass. When they had passed, Terrell crawled up to the road and found Foster at the right-hand or West side, lying on his back. Foster's head was full of blood and he appeared to be dead. Terrell's story from here corresponds to LaPoint's, Terrell also claiming that he had never received any compensation for being out in Nola the night of 16 April and the morning of 17 April, 1945. It must be kept in mind that Terrell suspected Carbone and Giuliani of having done the firing which resulted in Foster's death, because at the time he made the statement he had no idea that the Vitale brothers, or anyone else beside the original 8, had been in the vicinity where the shooting took place. Terrell seemed to relate the series of the events that occurred with sincerity and complete composure, and when he later learned that LaPoint's story differed somewhat from his, he (Terrell) was even more insistent that what he said was exactly as things happened.

While Terrell was being confined in the Naples Police Station he dug a small lead pellet (Exh.#11) about the size of a "beebie", from his back and turned it over to the undersigned saying that he had been hit with it on the morning of 17 April, when Foster was killed, at the time the first volleys were fired at the colored soldiers. Terrell was last known to be confined in the F.B.S. Garrison Stockade #2, Pisa,

13. Thru a system of informers, and information received from Carbone's wife, from whom he is separated, the undersigned were able to apprehend Carbone at his home, Via Espreno Galante #134, Capodichino, on 16 May, 1945. After questioning Carbone concerning the facts leading up to Foster's death he made a statement (Incl.#9) in which he admitted going to Nola with the 3 colored soldiers and Passero, meeting Iovino, Giuliani and De Martino, and going to the home of the one-armed civilian with intent to rob him. As they approached the latter's home, one of the colored soldiers was handed a double-barreled shotgun (Cal.12), another was given a single barrel shotgun (cal.16), the third negro took Iovino's pistol, and Passero took the Italian rifle. After the negroes failed to carry out the planned robbery Iovino took back his pistol, Giuliani took the double-barreled shotgun, and De Martino picked up the single barrel shotgun. Carbone also confessed that he had participated in stealing some wine, corn, potatoes, a shovel, a leather horse harness and some wire. When these items were loaded into the cart all 8 persons started off toward Nola. As they turned South onto Via Bosco Fangola, De Martino was leading the horse, walking at its right side; the three colored soldiers and Passero were walking abreast of each other behind the cart; Carbone was in back of Passero; Iovino was 20 yards behind Carbone and on the right-hand side of the road, while Giuliani walked along the left side. Suddenly Giuliani opened fire in the direction of the colored soldiers and at the same time De Martino also fired upon the negroes. Although Carbone claims to have thrown himself into the field at the right side of the road he was hit in the right thumb by a lead pellet, about the size of a "beebie". At the time Carbone made his statement he did not know that the Vitale brothers had been hiding in the field at the left side of the road and had fired at them. Carbone said he had no idea why De Martino and Giuliani fired upon them other than to scare them away and prevent them from getting any of the loot.

14. Carbone took the undersigned and VBrig. of the Carabinieri, Geraani Giovanni, over the route they had travelled on the night of 16 April and the early morning of the 17th. Upon arriving at Via Antonio Del Duca, #51, Nola, on 17 May, 1945, a boy named CORRADO Arcangelo was located who said (Incl.#10) that on or about the night of 16 April (he could not recall the exact date, however) there appeared 7 or 8 persons, believed to be civilians, one of whom was carrying a rifle similar to that used by the American Armed Forces. The armed person told Corrado not to move toward him, and after telling Corrado to go away fired 2 shots into the air. However, nothing else happened and the strangers left without further ado. Corrado said he was unable to recognize or identify any of them, because it was dark.

15. Also, on the 17th of May, 1945, the undersigned and VBrig. Geraani visited the farmhouse, Via Bosco Fangola #10, Nola, where the theft on the night of 16 April had been committed. The caretaker, DE ROSA Carmine, was contacted and after discussing what the losses were, etc., he made a statement (Incl.#11) wherein he related that on the morning of the 17 April he arrived at the farmhouse, which is owned by VITALE Francesco, Nola, and found the door to the storehouse open. An inventory of the contents revealed that two full drums of wine (containing 50 liters each), 200 pounds of potatoes, 300 pounds of corn, 20 pounds of wire, 300 pounds of manure, a shovel and a leather horse harness had been stolen by persons unknown; the total value of these items being approximately 27,450 lire. De Rosa said that neither he nor Vitale Francesco ever bothered to report the incident to the local Carabinieri because so many thefts were committed in that area it would be hard to

identify the thieves. De Rosa said he knew nothing about the facts pertaining to the death of a colored American soldier found on the road near the barn the morning of 17 April, except that most of the people in Nola had learned about it a day or so later.

16. Numerous and continued efforts were made by the undersigned, with the aid of VBrig. GERMANI, to obtain more information as to the full names and the whereabouts of IOVINO, DE MARTINO and GIULIANI, for up to the early part of July these facts were not yet known. Finally, thru devious and round-about methods, an informer was located who furnished the names and addresses of the above mentioned three Italian civilians. Immediate steps were taken to apprehend them, but it was learned that Iovino and Giuliani were not living at their legal residences, and had been away from home (fugitives) for several weeks. Furthermore, when the undersigned went to the home of DE MARTINO Luigi Via Madonna delle Grazie #39, Nola, around the middle of July, 1945, it was then that the death of DE MARTINO came to be known, he having allegedly died from a heart condition. His sister, DE MARTINO Rosa, contended that she knew nothing of her brother's activities on the night of 16 April and the morning of 17 April, nor had she heard of the death of any negro soldier on or about the date in Nola. She said that Luigi had died on 20 April, 1945, at their home, from a heart attack, having been attended by Dr. SCALA Antonio, Nola.

17. Additional investigation by the undersigned as to the actual cause of DE MARTINO's death uncovered information that he had been wounded about the face and head on or about the morning of 17 April, by gunshot fire. That the wounds became infected causing his system to become poisoned and resulting in his death. An autopsy of DE MARTINO's body was deemed advisable and all necessary preparations were made to have the body exhumed, but after consulting Capt. Leslie Jolliffe, M.C. pathologist of the 15th Medical Laboratory, who contended that too much time had elapsed since DE MARTINO's death to warrant an autopsy and obtain any worthwhile results, the plans were abandoned.

18. However, an interview was arranged with Dr. SCALA Antonio, Via Anfiteatro #6, Nola, the physician who attended De Martino before he died, and the former made a certificate (Incl. #12) stating that he had been called to the latter's home on the 20th of April, and asked to give him medical attention for a fit he had taken. When Dr. SCALA entered the house DE MARTINO was lying in bed, fully clothed, writhing in agony. SCALA administered a hypodermic of "aparte-camphor", and with that DE MARTINO breathed his last breath. An examination of the abdomen and thorax by Dr. SCALA did not reveal any mark of violence nor did his face and scalp disclose marks of lesions, bloodstains, or marks of medical treatment. Dr. SCALA concluded that DE MARTINO died from angina pectoris with strictures of the coronaries, and so certified in DE MARTINO's death certificate.

19. Toward the latter part of July, contact was finally established with friends of IOVINO and GIULIANI, who informed the undersigned that although these two would not come out of hiding they had been doing some "snooping" themselves concerning the death of Foster, and had found that on the night he was murdered, three brothers, by the name of VITALE, had been hiding in ambush along Via Bosco Pagnola. Further that when the 5 civilians and 3 negro soldiers by the place where the brothers were hiding the latter opened fire, resulting in Foster's death. Little time was lost in apprehending Salvators, Antonio and Carmine VITALE.

20. VITALE Carmine, Via Pozzo Nuovo #8, Cimitile, upon being questioned concerning his knowledge of Foster's death, voluntarily made a statement (Incl. #13)

in which he said that on the night of 16-17 April, 1945 he visited his father's farm located along Via Bosco Fangola #10, Nola in order to be alert to any thieves who might attempt to loot it, because there had been several cases of robberies in that vicinity recently. When he arrived within 200 yards of the farmhouse he noticed lights inside. Realizing that thieves were there, and being afraid that they would be too many for him to handle alone, he went back into Nola and called his brothers Antonio and Salvatore for assistance. The 3 of them, each armed (allegedly) with a shotgun, hurried back to the farmhouse, but as they drew near they saw a cart driving away, so they continued on across the fields until they came to within 5 or 6 yards of "Strada Comunale" or Via Bosco Fangola, where they hid themselves in the wheat. As the cart approached the place where they were concealed Carmine noticed a man leading the horse, and 7 or 8 persons walking behind the wagon. After the group had passed on about 75 feet, Salvatore (VITALE) fired two shots in the direction of the cart and Antonio fired one. Carmine contends that he did not shoot his gun at any time. Then, 4 or 5 minutes later, the thieves fired back at Carmine and his brothers. This caused the VITALE's to flee, returning back to their respective homes. Carmine said he had no idea that they had killed or even injured anyone, and had no knowledge that American soldiers were anywhere in the vicinity when the firing was going on.

21. When VITALE Antonio, Via Nazionale delle Puglie #286, Nola was interrogated as to the facts of the shooting, he told a story somewhat similar to his brother Carmine. In his statement (Incl. #14) he admitted answering Carmine's call for assistance, and did not deny that he took with him a 12-gauge shotgun, a "Fine Damascus Belgium" with the two barrels as did Salvatore. Antonio said that Salvatore gave him 2 cartridges which the latter had made at home. Antonio said he was not sure as to just how they were loaded but believed that No. 10 lead was used. Furthermore Antonio admitted that Salvatore was the first to shoot that night firing 2 shots at once, at the thieves who were then about 25 yards away, and that he (Antonio) also fired one shot from his gun at the group. When the thieves returned their fire the 3 VITALEs fled from the scene.

22. VITALE Salvatore, Via Nazionale delle Puglie #208, Nola, at first denied having shot anyone on the night of 16-17 April, 1945, and said that he had not been anywhere near Via Bosco Fangola, but had spent the entire night at home, in bed. However, upon being confronted by the admissions of his step-brothers, Antonio and Carmine, he did admit having taken part in the shooting, but attempted to justify his acts on the ground that he was trying to defend his property. In his statement (Incl. #15) Salvatore substantially confirmed that his two brothers had said. He admitted that the cartridges he and Antonio used were made at home by him (Salvatore), and that he had fired two shots at the thieves (before anyone else had fired) after they had passed the spot where he and his brothers had been hiding, and that Antonio had fired once. After Salvatore returned home, having fled the scene of the homicide when he and his brothers were fired upon as a result of their shooting first, he heard a wagon going past his home which looked like the one that had been used to steal stores from his father's farm house, but Salvatore did not bother to stop it and apprehend the driver. He claims not to be on very good terms with his step-brothers Antonio and Carmine.

23. When the undersigned conducted searches of the homes of the VITALE brothers they were unable to find the shotguns allegedly used on the night in question. The men insisted that their wives had hidden them so that they had no knowledge as to where they were, and the wives of the brothers pretended that they were also ignorant as to the whereabouts of the weapons. Finally Salvatore's

wifw, Barbato Francesco admitted that she had taken her husband's shotgun and hid it to a farm boy to hide it back in the country somewhere. She agreed to take the undersigned to the boy and it was already dark when, on the 16th of August, the searching party arrived at her farm, "CAMPOSANO", beyond Nola, in quest of the wanted gun. The boy who allegedly hid the weapon could not be found, so the undersigned, assisted by Salvatore's wife, started digging in manure piles and haystacks for it. Finally a young Italian who lived nearby came up to the woman and told her that he knew where the gun was hidden. He led the undersigned across a corn field and, stopped beside a pear tree, reached up into the branches and brought down a shotgun (Exhibit #12) which both Salvatore, and his wife in a statement dated 17 August (Incl #16), admitted was the shotgun Salvatore had carried, and in fact shot, the night Foster was killed. Then, when Antonio and Carmine learned that Salvatore's gun had been found, both of them instructed their wives to bring the guns they had carried, to the Naples CID Office, which was done: Carmine's gun being marked (Exhibit #13, and Antonio's marked (Exhibit #14).

24. After the VITALE brothers had been apprehended and their statements taken, negotiations were made with the friends of GIULLANI and IOVINO to meet the latter two at a prearranged rendez-vous, out into the country, beyond Nola. The meeting took place in a barn, around 2200 hours, on 9 August 1945, with the undersigned, VBrig. GERMANI, GIULLANI, IOVINO and the intermediaries present. Both men told somewhat the same stories. Two days later IOVINO's statement (Incl #17) was reduced to writing. He related what had taken place the night of 15 April, as confirmed by Carbone, Passero and the two colored soldiers. He also admitted being out in the countryside of Nola again on the night of 16 April, with the 3 negroes and the 4 civilians, and robbing stores from a farmhouse (VITALE Francesco's) on Via Bosco Fangola. IOVINO said that after the merchandise was loaded onto DE MARTINO's cart all 8 of them started off toward the town of Nola. DE MARTINO and GIULLANI were up with the cart; CARBONE was behind the wagon; after him came PASSERO and one negro; and behind these two walked IOVINO with the other two colored soldiers. Suddenly a series of shots were fired at the group, coming from the left or east side of the road and behind them. IOVINO said it sounded to him like the discharges of a machine gun, followed by rifle shots and shotgun blasts. He threw himself into the weeds at the right side of the road, with two colored soldiers. After about 5 minutes he heard some people coming along the road speaking excitedly. He glanced up and saw 3 persons and heard one say (in Italian) "Carmine, they have all run away, let us run with the rifle". Then, after another 3 or 4 minutes, there was more firing in the direction where the cart had gone. The next morning IOVINO learned that DE MARTINO had been wounded about the face and head as a result of the shooting the night previously. In the Naples CID Office, IOVINO was placed in one corner of a room and the VITALE brothers were taken into the room, one at a time and briefly interrogated by Vice Brig. GERMANI. After these interrogations ended, IOVINO stated that he positively identified the voice of VITALE Antonio as the one he had heard say "Carmine", they have all run away, let us run with the rifle", the night of 16-17 April, just after Foster was shot and killed. IOVINO contended that he did not fire any weapons on the night in question, and that he was unable to produce the one he had carried because it belonged to DE MARTINO and he did not know now where it was.

25. GIULLANI Alfonso, Via Tommaso Vitale #30, Nola, also made a statement (Incl 18) in which he told practically the same story that IOVINO related. GIULLANI said that when the shooting started he and DE MARTINO, both of whom had been walking up with the horse and cart, started to run, urging the horse to hurry them. After they had gone about 500 yards there was more shooting. But they continued on until they reached DE MARTINO'S house. Upon arriving at the

latter's house it was found that he had been wounded in the head, the left side and left wrist, by gunshot, six or seven bullets (probably pellets) being found in the back of his head. Four or five days later DE MARTINO died, and it is GIULIANO's contention that he died from poisoning resulting from infection which got into the gunshot wounds he received the night in question. GIULIANI was unable to produce the shotgun he had carried the night of 16-17 April, stating that all the weapons had been the property of DE MARTINO and he did not know where they were or what had happened to them.

26. The 3 VITALE brothers, Salvatore, Antonio and Carmine, have been confined to Poggioreale Prison, Naples, pending trial for the death of Pvt. John A. Foster. Terrell and LaPoint were returned to the Provost Marshal of the 24th Replacement Depot after being interrogated by the undersigned. CARBONE Vincenzo, PASSECO Raffaele, IOVINO Donato, and GIULIANI Alfonso are not being held in confinement. All evidence in the case is being held by the Naples CID Office until such time as it will be needed in the trial of the accused.

27. The undersigned have questioned a number of people, residents of Nola and Cimitile, as to the type and kind of home-made cartridge they use in their shots-guns, and several stated that it is common practice to put steel ball-bearings (of the type and size in automobile wheels) or rounded steel or hard metal balls inside the cartridges to make the shot more effective. It is believed that the VITALE brothers used steel balls in the shotgun cartridges which they fired the night in question, one of which went thru Foster's head resulting in his instant death. Attached hereto (Exhibits #15, 16, and 17) are three sample home-made cartridges caliber .12, containing steel balls, which were obtained from a resident of Nola.

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CONCLUSIONS:

C From the investigation conducted and the facts recorded above, it is concluded that:

a. On or about 0200 hours, 17 April, Pvt. John A. Foster, ASN 34065987, Co. "X", Pvt. Horace J. LaPoint, ASN 38080987, formerly with 401st Repl. Co., now a member of 3429th Q.M. Trk. Co., APO 782 and Pvt Willie J. Terrell, ASN 34220903, formerly with 400th Repl. Co., and presently confined in P.B.S. Garrison Stockade #2, Pisa, all three of whom were with the 13th Bn., 24th Repl. Depot, along with PASSERO Raffaele, Via Del Cassano #21, and CARBONE Vincenzo, Via Espreno Galante #134, both of Capodichino, Italy, plus DE MARTINO Luigi, Madonna delle Grazie #39, IOVINO Donato, Via Principessa Margherita #15, and GIULIANI Alfonso, Via Tommaso Vitale #30, all of Nola, knowingly and unlawfully broke into a farmhouse situated at Via Bosco Fangola #10, Nola, belonging to VITALE Francesco, (and cared for by DE ROSA Carmine) and stole 2 drums full of wine (each containing 50 liters), 200 pounds of potatoes, 300 pounds of corn, 20 pounds of wire, 300 pounds of manure, a shovel and a leather horse harness, the total value of which is approximately 27,450 lire;

b. On or about 0230 hours, 17 April, 1945, Pvt. John A. Foster, ASN 34065987 Co. "X", 13th Repl. Bn., 24th Repl. Depot, was shot and killed while walking along Via Bosco Fangola, Nola, by VITALE Carmine, Via Pozzo Nuovo #8, Cimitile, VITALE Antonio, Via Nazionale delle Puglie #286, Nola, and VITALE Salvatore, Via Nazionale delle Puglie #208, Nola, who were hiding in ambush in the wheat field adjacent to the road.

William B. Hutchinson Jr.
WILLIAM B. HUTCHINSON,
Agent, CID.

Dennis J. Buttmore
DENNIS J. BUTTMORE,
Agent, CID.

18 INCLOSURES:

- Incl.No.1. Statement of Pvt. Pinney
- Incl. No.2. Autopsy report on Pvt. John A. Foster
- Incl.No.3. Brain alcohol test on Pvt. John A. Foster
- Incl.No.4. Extract of morning report of 287th Repl. Co.
- Incl.No.5. Statement of Pvt. Horace LaPoint
- Incl.No.6. Statement of PASSERO Raffaele
- Incl.No.7. Supplementary statement of PASSERO Raffaele
- Incl.No.9. Statement of Pvt. Willie J. Terrell
- Incl.No.9. Statement of CARBONE Vincenzo
- Incl.No.10. Statement of CORRADO Aracangelo
- Incl.No.11. Statement of DE ROSA Carmine
- Incl.No.12. Statement of SCALA Antonio
- Incl.No.13. Statement of VITALE Carmine
- Incl.No.14. Statement of VITALE Antonio
- Incl.No.15. Statement of VITALE Salvatore
- Incl.No.16. Statement of BARBATO Francesco
- Incl.No.17. Statement of IOVINO Donato
- Incl.No.18. Statement of GIULIANI Alfonso

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17 EXHIBITS:

- Exh.No.1. Photograph of body of Pvt. John A. Foster.

- Exh. No.2. Photograph of body of Pvt. John A. Foster
- Exh. No.3. Photograph of body of Pvt. John A. Foster
- Exh. No.4. Photograph of section of field along Via Bosco Fangela, Nola
- Exh. No.5. Liberty Pass made out to Pvt. John A. Foster
- Exh. No.6. A.C. Identification card issued to Pvt. John A. Foster
- Exh. No.7. Overseas hat, O.D. color, found with body of Pvt. John A. Foster
- Exh. No.8. Map of Crime scene (photograph)
- Exh. No.9. Empty shot-gun shell, caliber, .12
- Exh. No.10. Empty shot-gun shell, caliber .16
- Exh. No.11. Lead Pellet taken from back of Willie J. Terrell
- Exh. No.12. Shotgun, caliber.12, belonging to VITALE Salvatore
- Exh. No.13. Shotgun, Caliber.16, belonging to VITALE Carmine
- Exh. No.14. Shotgun, caliber.12, belonging to VITALE Antonio
- Exh. No.15. Sample home-made shotgun cartridge, caliber .12, containing 4 steel balls.
- Exh. No.16. Sample home-made shotgun cartridge, caliber .12, containing 4 steel balls.
- Exh. No.17. Sample home-made shotgun cartridge, caliber .12, containing 4 steel balls.

RECOMMENDATIONS:

From the investigation conducted and the facts recorded herein, it is recommended that:

a. Pvt. Horace J. LaPoint, ASN 38080987, formerly with the 401st Repl. Co., presently assigned to 3429th Q.M. Trk. Co. APO 782 and Pvt. Willie J. Terrell, ASN 34220903, formerly with 400th Repl. Co., presently confined in P.B.S. Garrison Stockade #1, Pisa, both from the 13th Repl. Bn., 24th Repl. Depot, be tried for burglary in aiding and abetting the theft of 2 drums of wine (each containing 50 liters), 200 pounds of potatoes, 300 pounds of corn, 20 pounds of wire, 300 pounds of manure, a shovel, and a horse harness, total value of which is approximately 27,450 lire, from the farmhouse of VITALE Francesco, Nola, on the night of 16-17 April, 1945;

b. That VITALE Carmine, Via Pozzo Nuovo #8, Cimitile, VITALE Antonio, Via Nazionale delle Puglie #286, Nola, and VITALE Salvatore, Via Nazionale delle Puglie #208, Nola, all of whom are presently confined in Foggiorale Prison, Naples, be tried for the homicide of Pvt. John A. Foster, ASN 34065987, former member of the Army of the United States, who was killed on or about 0230 hours on the morning of 17 April 1945, as he was walking along Via Bosco Fangola, Nola.

Frank T. Garro
FRANK T. GARRO,
1st Lt., CMP,
Chief Agent, CID.

CONFIDENTIAL
OFFICE OF THE PROVOST MARSHAL

CRIMINAL INVESTIGATION DIVISION

APO

U. S. Army

STATEMENT OF Pvt. James FINNEY, 14236045, R.A.O.C., 16 B.A.D.

in the case of _____

given at 1420 hours 17 April 1945 Nola
(Time) (Date) (Place)in the presence of William B. Hutchinson, Jr. Agent, CID.
Jack R. Murdoch, Agent, CID

Officer taking statement: Pvt. Finney, Under the 24th Article of War, it is my duty to warn you of your rights in this case. You are not required to make a statement. You may remain silent. However, if you do answer my questions or make any statements, whatever you say may be used against you should this investigation result in a trial. Do you understand what I have just said? (Answer) Yes

I was working on Via Bosco Famgola, Nola, around 0935 hours this morning (17 April, 1945) when I happened to notice a body lying at the left-hand side of the road. At first I thought it was an Italian resting himself but upon closer observation I found that he was a negro American soldier. He was lying on his back, clothed in pants and shirt and combat boots, and his hat was under his head which was lying in a pool of blood. I could see that he had been wounded on the left and right side of his head, and it was evident that he had been bleeding profusely from these wounds. He was dead when I found him, and the blood on the ground, near his head, was beginning to dry around the edges. Just off of the road, in the adjacent field, was a small area where the weeds had been matted down, as though there might have been a scuffle. There was evidence that someone had walked to or from this area from a nearby house. I do not know what caused his death.

A TRUE COPY :

Frank T. Garro
FRANK T. GARRO
1st Lt., C.M.P.,
Chief Agent, CID.

Witnessed:
~~Subscribed and sworn to before me~~
this 17 day of April 1945

Signature s/ J. FinneyWitness: s/ Lt. Chrystal, P.G.

(Name)

(Rank)

PMG NATOUSA Form No. 7

SUMMARY COURT

CONFIDENTIAL

Incl. #1

-A-1924

PATHOLOGY SECTION
15th Medical Laboratory
APO 512, U.S.ARMY

SHC/ma

NAME: FOSTER, John A. ASN: 34065987 STATUS: Pvt.

ORGANIZATION: 287th Replacement Co., 24th Replacement Depot.

AGE: Unknown SEX: Male RACE: Colored NATIVITY: Unknown

DIED: D.O.A. Found dead 17 April 1945, 0930 hours.

AUTOPSIED: 15th Medical Laboratory, 18 April 1945, 1000 hours.

PROSECTOR: Leslie S. Jolliffe, Captain, M.C.

CLINICAL DIAGNOSIS

None.

PATHOLOGICAL DIAGNOSES

1. Gunshot wound, perforating, head.
2. Fractures, compound, comminuted, multiple, severe, skull.
3. Laceration, brain, severe.

BRIEF CLINICAL SUMMARY

The body was found lying in a pool of partially dried blood in a road near Nola, Italy at 0930 hours 17 April 1945. There was no weapon found in the vicinity by investigators.

PROTOCOL

The body is that of an adult male negro measuring 160 cms. in length and weighing an estimated 155 pounds. Rigor mortis is complete, lividity is not discernible. There are no findings of importance on external examination except as will be described under "Head" below.

HEAD: There is a roughly circular wound 1.8 cm. in diameter situated in the left occipital region at a point mid-way between the left ear lobe and the occipital protuberance - from this wound a small amount of brain substance protrudes. The wound of exit is situated in the right parietal region at a mid-way between the superior border of the right helix and the midline, 3 cms. behind the posterior border of the right helix. It is a lacerated wound 4.5 cms.

11.5 cms. and covered by crusted blood and dried brain tissue. There is no charring evident about the wound of entrance, or the tissues deep to it. Removal of the scalp reveals multiple fractures of the vault of the skull so that complete removal is possible without resort to sawing.

The wound of entrance on the left is observed to be a circular hole 1.3. cms. in diameter with marked "beveling" of the inner table. The wound of exit in the right parietal bone, when reconstructed from the fragments, is identical in shape and size with the beveling on the external surface. No metallic particles are evident on the edges of the perforated wounds in the skull.

Removal of the brain discloses additional fractures in the base of the skull. The brain itself is traversed from the left occipital to right parietal lobes by a widely lacerated tract surrounded by a small zone of hemorrhage. The brain tissue is considerably pulpified.

The remainder of the autopsy findings are negligible save for the presence of venereal warts on the penile corone two of which are ulcerated.

COMMENT: The trauma described is the result of a perforating gunshot wound entering the left occipital-temporal region and emerging from the right parietal region. The bullet tract courses from below on the left upwards and to the right at approximately a 30° angle and slightly forward.

Examination of the khaki overseas cap found by the body discloses perforated holes indicating that it was being worn by the deceased, with the side flaps down at the time of wounding. The interior of the cap contains bone particles and brain tissue. There is no visible charring of the cloth around the wound of entrance and no powder particles grossly evident. Tests for powder residue are not available at this laboratory.

The extent of the fractures, brain tumefaction, and size of the perforated wounds of the skull suggest that the lethal missile was probably .45 calibre bullet fired from a close proximity; the absence of the charring or powder residue would indicate a muzzle distance of greater than eight inches and probably not exceeding 18-24 inches.

Rigor mortis was fully developed at the time of autopsy (24 hours after the body was found); the observation was made that the blood had congealed and was slightly drying at the edges; no report was made of the extent of rigor at the time of the finding of the body. From this detail is only possible to speculate that death probably occurred between 2100 hours 16 April 1945 and 0930 hours 17 April 1945.

s/ S.H. Colvin, Jr.
Lt. Col., M.C.
Acting Chief of Section

A TRUE COPY:

Frank T. Garro
FRANK T. GARRO
Captain, C.M.P.,
Chief Agent, CID.

Incl. #2

(Translation)
(Traduzione)

15-A-1924

SEZIONE DI PATOLOGIA
15.mo Laboratorio Medico
APO 512 U.S. ARMY

SHC/ma

NOME: FOSTER, John A. ASN: 34065987 GRADO: Soldato semplice.

ORGANIZZAZIONE: 287.mo Replacement Co. 24mo Replacement Depot.

ETA': Sconosciuta SESSO: maschile RAZZA: negra PATERNITA': N.M.

MORTE: E.O.A. Trovato morto il 17 Aprile 1945, alle ore 0930.

AUTOPSIA: 15mo Laboratorio Medico, 18 Aprile 1945, ore 10:00.

PERITO SETTORE: Leslie S. Jolliffe, Medico, M.C.

DIAGNOSI CLINICA

Nessuna.

DIAGNOSI PATOLOGICA

1. Ferita di arma da fuoco, penetrante in cavita', testa.
2. Fratture, composite, ~~contorte~~, multiple, gravi, cranio.
3. Lacerazione, cervello, grave.

BREVE SINTASSI CLINICO.

Il cadavere fu trovato giacente in una pozza di sangue in parte disseccato in una strada di campagna vicino Nola, Italia, alle ore 9,30 del mattino del 17 Aprile 1945. Nessuna arma fu trovata dagli agenti investigatori nelle vicinanze.

PROTOCOLLO.

Il cadavere e' quello di un negro adulto, misurante 160 cm di lunghezza e del peso di circa 155 libbre. Il rigor mortis e' completo, lividita' non percettibile. Non vi sono segni importanti all'esame esterno eccetto quelli che saranno descritti al paragrafo seguente intitolato "Testa".

TESTA: Vi e' una ferita ad un dipresso circolare di cm 1.8 di diametro, situata nella regione occipitale sinistra a mezza strada tra il lobo dell'orecchio sinistro e la protuberanza occipitale, con fuoriuscita di una piccola quantita' di materia cerebrale. Il foro di uscita e' situato nella regione parietale destra ed a mezz-

za strada tra il bordo superiore dell'elice destra e la linea mediana, 3 cm dietro il bordo posteriore dell'elice destra. E' una ferita lacerante di cm 4.5 per 1.5 e coperta da una crosta sanguigna e materia cerebrale disseccata. Non vi sono segni di bruciature intorno al foro di entrata e nei tessuti sotto di esso. La rimozione del cuoio capelluto rivela multiple fratture della volta del cranio cosicche' la completa rimozione del cranio e' possibile senza dover ricorrere alla sega.

Il foro di entrata sul lato sinistro e' all'osservazione un foro circolare del diametro di cm. 1.3 con pronunciata "inclinazione" del piano osseo interno. Il foro di uscita nell'osso parietale destro, quando e' stato ricomposto dai frammenti, e' identico per forma e dimensioni con la inclinazione della superficie esterna. Non c'e' evidenza di particelle metalliche ai bordi delle ferite penetranti nel cranio.

L'estensione del cervello rivela fratture addizionali alla base del cranio. Il cervello stesso e' traversato, dal lobo occipitale sinistro al lobo parietale destro, da un tracciato ampiamente lacerato circondato da piccola zona emorragica. Il tessuto cerebrale e' notevolmente spazzolato.

Il rimanente dei risultati dell'autopsia e' di lieve importanza ad eccezione della presenza di escrescenze veneree sulla corona del pene due delle quali sono ulcerose.

COMMENTO: Il trauma descritto e' il risultato di una ferita perforante di proiettile di fucile entrato nella regione temporale-occipitale sinistra e uscito dalla regione parietale destra. Il percorso del proiettile va dalla sinistra in basso verso l'alto a destra con un angolo di circa 30 gradi e leggermente in avanti.

Un esame del berretto kakhi tipo oltramarino trovato presso il cadavere rivela buchi indicanti che esso, al momento del ferimento, era portato dal defunto con le falde laterali calate. L'interno del berretto contiene particelle di osso e materia cerebrale. Non vi sono bruciature visibili della stoffa intorno al foro di entrata ne' tracce di polvere da sparo sono evidenti. Non e' possibile in questo laboratorio fare esami per la ricerca di residui di polvere.

L'estensione delle fratture, la tumefazione del cervello, le dimensioni delle ferite perforanti del cranio indicano che il proiettile letale era probabilmente del calibro .45, sparato molto da vicino; l'assenza di bruciature o di residui di polvere indicherebbe che la bocca dell'arma ~~xxx~~ era ad una distanza maggiore agli otto pollici e probabilmente non eccedente i 13 ai 24 pollici.

Il rigor mortis era completamente sviluppato al momento della autopsia (24 ore dopo ~~xxx~~ il ritrovamento del cadavere); si nota che il sangue era congelato e leggermente disseccato agli orli; non fu fatto rapporto circa il grado di sviluppo del rigor al momento del ritrovamento del cadavere. Da questo dettaglio e' soltanto possibile supporre che la morte probabilmente occorse fra le ore 2100 del 16 Aprile 1945 e le ore 0930 del 17 Aprile 1945.

CORTA LEGALIZZATA

(Firmata)

FRANK T. CARBO

Captain, C.N.P.

Agente Capo, C.I.P.

(Firmato) S.H. Colvin Jr.

Ten. Col. M.C.

Scrittore Capo Sezione

785016

CHEMISTRY SECTION
15th MEDICAL LABORATORY
APO 512 U.S. ARMY

FWA/scs

19 April 1945

SUBJECT: Brain Alcohol.

TO : Chief of Pathology Section, 15th Medical Laboratory,
APO 512, U.S. Army.

1. The Brain of John A. Foster, ASN 34065987, received 18 April 1945 was analyzed for Ethyl Alcohol content and found to be negative.

For the Commanding Officer:

s/ FRANK W. ALLEN
Major, Sn.C.
CHIEF OF SECTION

TRUE COPY:

s/ Leslie S. Jolliffe
Capt. M.C.

A TRUE COPY:

Frank T. Garro
FRANK T. GARRO,
Captain, CMP.,
Chief Agent, CID.

30

Incl. #3

Foster, John A. 34 065 987, Pvt 287th Repl Co, 20th Repl Bn.

EXTRACT COPY OF MORNING REPORT OF--

287th Repl. Co. 20th Repl Bn

13 April 1945
Foster, John A. 34 065 987 Pvt
(Cld) Dy to AMOL 0630 hrs

287th Repl Co La Fagianeria
Italt 19 April 1945

I, Charles A. O'Toole, Capt. Inf, certify that I am the Commanding Officer of 287th Repl Co and official custodian of the morning reports of said command, and that the foregoing is a true and complete copy (including any signature or initials appearing thereon) of that part of the morning report of said command submitted at La Fagianeria, Italy for the dates indicated in said copy which relates to John A. Foster, 34065987, Pvt, 287th Repl Co, 20th Repl Bn.

s/ Charles A. O'Toole
t/ CHARLES A. O'TOOLE
Captain, Infantry

A TRUE COPY:

Frank T. Garro
FRANK T. GARRO,
Captain, CMP,
Chief Agent, CID.

CONFIDENTIAL
OFFICE OF THE PROVOST MARSHAL

CRIMINAL INVESTIGATION DIVISION

APO

U. S. Army

24th R.D. APO 781

Pvt. Horace Joseph LA POINT, ASN 38080987, 401st Hapl. Co., 13th Ar. /

STATEMENT OF Pvt. John A. Foster

in the case of

given at 1030 hours 2 May, 1945 CID Office, Naples

William D. Hutchinson, Jr. Agent, C.I. (Place)

in the presence of

24th A.H.

Pvt. LaPoint, under the/

Officer taking statement:

Under the 24th Article of War, it is my duty to warn you of your rights in this case. You are not required to make a statement. You may remain silent. However, if you do answer my questions or make any statements, whatever you say may be used against you should this investigation result in a trial. Do you understand what I have just said? (Answer)

On 13 April, 1945, Pvt. John A. Foster, three Italian civilians and myself boarded a train in Naples, around 1700 hours, for Mola. One of the civilians was about 21 years old, weighed about 130 pounds, was about 5'5" tall, had a small aquiline and blonde wavy hair, wore an Italian soldiers uniform, and answered to the name "Pasquale". Another civilian, a friend of Pasquale's, was about 29 years old, was puny looking, never wore a hat, had long hair, flat feet, was about 5'4" tall, and had 3 sores about his mouth. The third civilian was an old man, with a peck-marked face, who wore a cap and a green civilian coat, but had a stick which supported a large watch-chain, had dark blue trousers, wore a red handkerchief around his neck, and had black civilian shoes which were cracked and broken. Foster had been a friend of mine for several months previously. Our reason for going to Mola was that Pasquale had told Foster and me that the old man had two friends in Mola who knew another person in Mola that was quite rich and that if they could steal some of his money it would be split 50-50 among all concerned. After arriving at Mola, around 1830 or 1900 hours, all except the old man went out into the country, taking the first road on the right after crossing the railroad track, in the direction of Naples. The old man went in search of his two friends. The boy with the long hair guided Foster, Pasquale and me along this road until we came to a brick-paved bridge. Across this bridge, in the first barn on the right, we built a little fire and waited until 2130 hours when the old man arrived and said his 2 friends would be along in about an hour. None of the 5 of us were armed, but the old man and the boy with the long hair had flashlights. Eventually we all laid down to get a little sleep, the old man keeping watch for his friends. It was about 0630 hours the next morning when I awakened. The old man was still up and said his friends had failed to show up. Around 0730 hours all 5 of us walked back to the train station. The old man stayed in Mola but the rest of us took the train back to Naples, arriving there around 1015 hours. Foster went back to Capodichino alone, the boy with the long hair also took off somewhere, and Pasquale and I stayed at the station for a little while while he straightened out something about not having a train ticket, then we too went to Capodichino. /// OVER //////////////////////////////////////

Signature

Subscribed and sworn to before me

this day of May 1945

(Name)

(Rank)

PMG NATOUA Form No. 7

SUMMARY COURT

CONFIDENTIAL

Incl. #5

(Continued from at side) ///

Around 1600 hours, 16 April, 1945, Pasquale, the boy with the long hair, Foster, Pvt. Willie Terrell, also known as Robert Terrell, and myself, met in Capodichino and went to Naples. Moore, who was with us, was caught in a trap in Nola. We arrived in Nola between 1900 and 1930 hours, and after waiting at the station for about 15 minutes we were joined by the old man who had been with us the previous night. All 6 of us then went back to the same dirt road, running off of the Naples highway, that we had been on the night before. At the aforementioned brick-walled bridge we met one of the two friends of the old man who we were supposed to have met the night previously. This fellow was about 5'5" tall, wore green trousers tucked into high socks, and had black hair. He is about 45 years old, has blonde hair with pompadour cut, has a rough looking face and appearance, and mean looking eyes. All 7 of us continued beyond the bridge to the first cross-road, and entered the first barn on the left which was empty except for some corn-stalks. We waited here until 2315 hours when the second friend of the old man came up with a horse and a small cart with two wheels. This stranger was also about 5'5" tall, had a big nose and a rough looking face and skin. He wore a long black coat and cap, and had a bit stooped. I judge he is about 45 years old. His horse was black with a white spot on his right front hoof. The wagon had boards on both sides and the back. On the horse's harness were little bells which kept ringing. This second friend had with him a double-barreled shotgun, an Italian rifle, and a gun which looked like a German machine gun. On this night the old man was carrying a .38-caliber revolver, which was silver-plated and had small black grips the right one being chipped, and had a short barrel. The double-barreled shotgun was given to Pasquale with some red shells. The boy with the long hair carried a long knife. The first friend of the old man carried the German machine rifle, while the second friend the Italian rifle. I think the German rifle had a clip of 5 ^{thirty} ~~thirty~~ ^{thirty} caliber bullets in it. After the horse was tied up behind the barn all 8 of us crossed the road we had come in on and continued on to the third house on the right. Pasquale, Foster, Terrell and myself went to the left of this house and hid in a clump of bushes, while the other 4 went up to the house. In about 20 minutes the 4 returned and said since no one was home they would have to come back around 0330 hours. It was then about 0030 hours, and as we started back to the barn I said I was hungry, so the cart driver told Foster, Terrell and myself to get in the wagon and he would take us to get something to eat. We 3 jumped in and covered ourselves with a piece of canvas. About 45 minutes later I looked to see where we were and found we were in front of the first house on the right of the cross-road we had left. The cart driver ^{stayed} outside but Foster, Terrell and myself went in and found the other 4 who we had left at the other barn inside gathering up corn, potatoes and wine. The door of the place looked as though it had been forced. Shortly thereafter the boy with the long hair told Pasquale to tell us soldiers to go outside and look around, but since none of us were armed Robert Terrell said no. We drank a little wine but not enough to get drunk. Finally the cart was loaded and we all started off. At the cross-road Pasquale, the boy with the long hair, and the two friends of the old man had a little huddle for a minute or so. Then all 8 of us started along the road we had come on, in the direction of the Naples highway. We were all on foot. The boy with the long hair was leading the horse, on the right; Pasquale was walking just behind the cart; Foster, Terrell and myself were walking behind Pasquale (I was on the right and Foster on the left); the old man was behind me, on the right-hand side of the road; and the two friends of the old man were walking behind all of us, at the left side of the road. As we passed beyond the bridge, around 0200 hours, no one was saying much when all of a sudden there were two blasts at our feet, sounding like shotgun fire. At this, Terrell and I, along with Pasquale and the old man, jumped off the road to the right, into a field of weeds. The boy with the long hair ducked low but kept on with the horse. The old man put his hand over my mouth to keep me from crying out. These first two shots came from across the road in the direction from which the two friends of the old man were walking. About 4 or 5 seconds after the first two reports there was a third shot from the left side of the road, sounding like rifle fire, followed almost immediately by a fourth shot which sounded like the first two. A minute or so later the two friends

Continued on next page

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OFFICE OF THE PROVOST MARSHAL

CRIMINAL INVESTIGATION DIVISION

APO

U. S. Army

24th R.D. APO 781

Pvt. Horace Joseph LA POINTE, ASN 56080987, 401st Repl. Co., 13th Bn.,

STATEMENT OF

Pvt. John A. Foster

in the case of

given at 1030 hours 2 May, 1945 CID Office, Naples

(Time)

(Date)

(Place)

in the presence of William B. Hutchinson, Jr. Agent, C.I.D.

Officer taking statement: Pvt. LaPointe, Under the 24th Article of War, it is my duty to warn you of your rights in this case. You are not required to make a statement. You may remain silent. However, if you do answer my questions or make any statements, whatever you say may be used against you should this investigation result in a trial. Do you understand what I have just said? (Answer)

Continued from preceding page
 of the old man came onto the road, passing by us in the direction of the Naples highway, singing. After they had gone about a block they turned around and started back to where I was lying. Just before this, Terrell had crawled up to the road and found Foster stretched out along the right side. I heard Terrell say "Foster, Foster". Then he said "My God," and came back and told us Foster was dead, having been shot through the head. When we heard the two friends of the old man coming back Terrell and we took off across the field. At about the same time Pasquale went off in another direction and the old man went across the field to our right. We finally came to the Naples Highway where we hailed a passing English oil truck which took Terrell and me to Naples. The last I saw of the old man he was limping across the field. Foster, Terrell and myself had been wearing our garrison caps down over our ears to keep warm because the night was cold. At no time did I see or hear either Pasquale or the old man discharge any weapons they had been carrying. The next day, 17 April, 1945, I met Pasquale and the boy with the long hair in Capodichino, and we discussed what had happened the night before. I told them I was very angry at what had happened, for I had lost a very good friend. Both Pasquale and the boy with the long hair pretended that they did not have any idea that anything like that was going to happen. At no time have I received any compensation for participating in any of the affairs at Nola, mentioned above. Since the day I left Nola, which was the morning of the 17th of April, 1945, I have not seen the old man or his two friends. The last I saw Terrell was in Capodichino, on the 22nd of April, 1945, at which time both of us were AWOL. To the best of my knowledge Foster died instantly, on the morning of 17 April, around 0200 or 0230 hours. And I believe he was killed by one of the two friends of the old man, who had been walking with us, on the left side of the road, and behind us, when the firing started. //End//

Signature

Horace Joseph La Pointe

Subscribed and sworn to before me
 this 2nd day of May 1945

Charles H. Wood
 (Name) C. H. WOOD Major, CMP
 Chief Agent, SUMMARY COURT

(Rank)

PMG NATOUSA Form No. 7

CONFIDENTIAL

Encl. #5

T-R-A-N-S-L-A-T-I-O-N

The year 1945, the 1st day of May, 1500 hours Naples, CID Office.
Before us Hutchinson, CID Agent and V. Brig. of the RR. CC. Germani Giovanni, is present
PASERNO Raffaele fu Vincenzo and di Amabile Olimpia, born at Miano, 18/7/1926,
residing at Capodichino, 21 Via del Cassano, baker, who upon being duly questioned,
states as follows:

In the last days of March 1945 I made acquaintance with three negro soldiers in a wine-shop located at Capodichino. They were sitting and eating with some girls and told me that their names were Robert, little Jimmy and big Jimmy.

I became more and more friendly with these soldiers, also because I knew Robert's girl, whose name is "Maruzzele". She lives in Naples, but is used to come to Capodichino, Via Magliana, every day. I also knew big Jimmy's girl who lives in Naples, and whose name is Maria.

Robert and big Jimmy used to meet their girls in the house of "zitello" (vico Magliana) whose real name I do not know.

I also knew that the three soldiers used to sleep in a house in Via Magliana, namely at the last but one door on the right, coming down to Via Magliana from Corso Umberto I. If I am not mistaken the owner of this house is Scarpa, Maria.

The three negro soldiers also used to eat in the house of Scarpa.

They always used to tell me that they had their passes with them, and almost every day, when back from Naples, they showed me a piece of paper with something written in English upon it, which they said was the authorization to stay out of camp.

On April 15th, 1945, while I was in said wine-shop in via del Cassano, together with Robert, little Jimmy and big Jimmy, we were called by a friend of mine, Vincenzo, who lives in a place called "sotto u pioppo bianco" ("under the white poplar") at Capodichino. At his call, we all left the wine-shop. Vincenzo told us the three colored soldiers that he had a friend working for a man in Nola and added that if we wanted to go to Nola with him we could make some money.

Upon this, Robert, who speaks Italian, asked Vincenzo, by what means they could make this money and Vincenzo answered that if they had the courage to enter the houses of the civilians in the area of Nola, they could get from said civilians, sums of money. This would be easy owing to the fact that the civilians of this area are scared of negroes.

The three soldiers did not believe to what Vincenzo said and told him so; but Vincenzo insisted and the three soldiers accepted and asked me to accept to.

We made the appointment at 1500 hours in piazza di Capodichino, where at the moment of taking off Vincenzo's uncle, also called Vincenzo, a forty years old, 1.65 m. tall, and hobbling by his left leg, joined us. I do not know where he lives.

At the time of our departure I was not armed and also all the others said that they were not armed. They said that they would have got the necessary arms in Nola as soon as they would need them.

We took the Circumvesuviana train and got to Nola around 18,30 hours. At the Station of Nola, hobbling Vincenzo told us to wait a little. He left us for a few moments and when he came back he told us to follow him.

Hobbling Vincenzo walked in front with his nephew Vincenzo and the three negro soldiers and I followed them at a little distance, through the fields of Nola. We arrived at a desert country house where hobbling Vincenzo again told us to wait and again went out alone. Waiting for him to return we made a fire to warm ourselves because we were cold.

An hour passed and hobbling Vincenzo came back alone saying that we were to wait for his companions. We waited all night but Vincenzo's companions did not show up.

Incl. #6

At 6 o'clock in the morning we made up our mind to get back to Capodichino but before leaving the place the three colored soldiers had a quarrel with hobbling Vincenzo on the ground that after such a long trip and a whole night spent in the country they had not carried out the plan which had been projected to them. As the soldiers protested, hobbling Vincenzo told us not to worry, but to get back to Capodichino and at 1700 hours of the same day to be back in Nole again. He said that he would have remained there to prepare all plans and if the following night the plans devised by him would not be a success, he was ready to pay any sum of money.

We took the train at 800 hours and got to Naples towards 9.30 hours. Unluckily, at the exit of the Circumvesuviana Station I was fined because I was found without the ticket.

The same day, i.e. the 16th, towards 1600 hours I again took the train with the three colored soldiers, Vincenzo's nephew and myself and we arrived at Nole at 17.30 hours. The three colored soldiers and I remained at the Station while Vincenzo went to call his uncle, who as I said above, had remained in Nole the evening before. 15 minutes later uncle and nephew showed up.

All together we went to the farm where we had been the night before and there we waited three hours or four. Then a man, whose name I do not know, showed up with a horse-drawn cart. Another man aged about 45, was riding on the cart. The two men carried an Italian two barrels hunting gun, loaded, a rifle, caliber 6.09 of the Italian Army, with five or six efficient clips. Hobbling Vincenzo was also armed with a loaded pistol, American type, heavy caliber, which I cannot specify.

After the two men from Nole arrived, hobbling Vincenzo told the colored soldiers to get the arms. Little Jimmy took the American rifle, Big Jimmy took the Italian hunting gun, and Robert took hobbling Vincenzo's pistol.

The Italian rifle was left on the cart because they said that it was inefficient.

After this hobbling Vincenzo pointed to the three colored boys a country house about 700 yards from the place in which we were. He told them to go to said house, knock at the door and as soon as the door would open, rush in and oblige the civilians to hand them all the money they had. The people of said house were scared of negroes and the owner has only one arm. He added that the owner of the house is very rich and has a lot of money. When Vincenzo had given these informations, the colored soldiers asked me to go with them, and I went. The four of us left the farm while hobbling Vincenzo his nephew the carrier and the other man (who is the carrier's servant) hid themselves among the wheat around the house chosen for the aggression. But we were lucky because we knocked again and again at the door of said house but no civilian came to open. Obviously the people of the house got wind of what was happening and did not open. So we came back with empty hands to the place from where we had started.

In the farm where we were all gathered, big Jimmy and Robert said that they were hungry and I said that I was even more hungry than they were. Fortunately the servant invited us to eat in his house.

Before leaving the farm, hobbling Vincenzo told the three colored soldiers to lay down the arms and were cross at the failure of our enterprise. Robert, big Jimmy, and little Jimmy gave back the arms: Vincenzo's nephew took the American rifle, hobbling Vincenzo took the pistol, the servant took the hunting gun and the carrier, the Italian rifle.

Since the servant had invited us to his home, the three colored soldiers and I got on the cart with the carrier and the servant, hobbling Vincenzo and his nephew walked ahead of the cart.

We got to a country-farm. The servant easily opened the entrance door and inside there was nobody. The servant took a hunk of bread and shared it among the negroes and me and while we were eating the carrier, the servant, hobbling Vincenzo and his nephew were busy loading on the cart three jars full of wine, about 50 kilos of raisins in a sack, a complete leather harness, a shovel for country work and some other stuff which I do not remember because I did not pay too much attention to what they were doing.

(1) and an American rifle with more clips. 2 -

Incl. #6

When the cart was loaded hobbling Vincenzo told us that we should go to Sola and gave us no explanation.

We left the farm in the direction of Sola and the men were armed as I have said above.

Along the Provincial road, before getting to the National Highway which leads to Sola, we were walking in the following order: first went Vincenzo (the nephew) who at about half way had laid the American rifle with which he was armed, down on the cart; a few yards from him was the horse and the loaded cart with the carrier riding on it. I was hanging at the rear of the cart and two yards behind me, walked the three colored soldiers, little Jimmy on the right, Robert in the middle and big Jimmy on the left. At about 10 yards distance (and I must here note that they lagged behind, farther and farther as we went on) walked hobbling Vincenzo and his servant, armed as I have said above.

We walked in this order for about 10 minutes and suddenly, without hearing any voice, I heard a shooting a few steps away. Not caring about the others I jumped out of the road and hid myself among the wheat. I do not know in what direction the others went.

While I was hiding behind a tree, among the wheat, I noticed that the shots came from the arms of hobbling Vincenzo and the servant, who fired in my direction three times, that is, whenever I tried to move from the place in which I was.

Hobbling Vincenzo and the servant fired about 20 shots in the place where the shooting had started, then about 10 minutes later, I heard shots at about 500 yards from where I was still hiding. Although the shots were fired at that distance, I could hear the lead of the bullets falling near me. In order to avoid an aggression by them on my person, I walked deeper into the country and spent there all the night. In the morning, towards five o'clock, I could at last cross over the road at about one and a half miles distance from the place in which the shooting had started. Then I reached the Circumvesuviana Station and got back to my house in Capodichino.

During above said shooting I could not see whether anyone of the civilians or of the soldiers, was reached. As I said, I got the Circumvesuviana train at 6 o'clock of the 17th and got home at about 9 o'clock. Towards 930 hours, I met Robert and big Jimmy in the wine shop located in Via del Cassano, Capodichino. The two colored soldiers, very much upset, told me that little Jimmy had been killed in the shooting of that night in Sola. Towards 1000 hours of that same day I went to the house of Vincenzo's nephew. He was not home but I found him towards 1700 hours and asked him why his uncle and the servant had opened fire during the night. He answered that he did not know why, and that he had had to run away as well. He added that the cart upturned in running but I told him that what he was saying was not true because in the morning I had walked through the road and never noticed anything. Therefore I told him that everything had been planned by his uncle. He denied.

Vincenzo also told me to forget about the incident because a single word would throw us all in jail. After the 17th, i.e. after the talk I had with Robert, big Jimmy and Vincenzo (the nephew), I have no more seen them.

Q.A. The first shot was fired by hobbling Vincenzo and the servant around 2.30 hrs.

I have nothing to add or to amend and I put down my cross mark because I am illiterate.

X Cross Mark of PARMENO Raffaele
Witnesses: s/ Giovanni Germani, VBrig.
s/ William Hutchinson, Jr. Agent, CID.

Translated By:

Lidia Teti

TETI LIDIA,
CID Interpreter.

Incl. #6

TRANSLATION

The year 1945, the 3rd day of May, 1000 hours, Naples, C.I.D. Office.
Before us HUTCHINSON, C.I.D. Agent, and V. Brig. of the CC.RR. GERMANI Giovanni, is present PASSERO Raffaele fu Vincenzo and di Amabile Olimpio, born at Miano, 18/7/1926, residing at Capodichino at # 21 Via Del Cassano, baker, who, upon being duly questioned, states as follows:

In addition to the statement I gave in this office on the 1st of May, I will specify now that, after loading the merchandise on the cart, we started in the direction of Nola. We walked for about half a mile and got to a crossing where we turned left.

As we turned, the carrier followed us walking through the fields and bordering the road at about 50 yards distance. He was armed with a hunting gun and none of us took any notice of the solitary walk of the carrier. All of us, except said carrier, walked in the following order: Vincenzo, nephew of the hobbling man, led the horse by the bridles and walked on the left side of the cart; near the wheel, armed with a rifle, walked the farm-servant whose nationality I do not know; I hang on the rear of the cart, armed with an Italian rifle which I later lay down on the cart because it was inefficient; behind me, about two yards away, walked three negro soldiers: Robert in the middle, Big Jimmy on the right and Little Jimmy on the left; at about one and a half yards from Big Jimmy, walked hobbling Vincenzo, armed with a heavy calibre pistol.

From the moment in which we turned left at the crossing, as I said above, in the direction of Nola, we walked one and a half miles, and during this period the farm-boy, always armed of the above-said arm, lagged behind us all and joined the carrier in the fields, at about 40 yards away from the cart.

When we got to about one and a half miles before the National highway which leads to Nola, the servant and the carrier opened fire in our direction with the arms in their possession.

Without caring about the others, I immediately took to run to the right and not to the left, through the fields where I hid myself till next morning.

I cannot say whether hobbling Vincenzo and his nephew Vincenzo fired back at the carrier and the servant, with their arms.

I have nothing to add or amend and in faith to what I have stated above I put down my cross-mark because I am illiterate.

His
Passero (x) Raffaele
mark
s/ Germani Giovanni

Translated by:

Lydia Teti
Lydia Teti
C.I.D. Interpreter

CONFIDENTIAL
OFFICE OF THE PROVOST MARSHAL

CRIMINAL INVESTIGATION DIVISION

APO U. S. Army

24th Repl. Depot, APO 701

STATEMENT OF Pvt. Willie J. Terrell, ASN 34220903, 400th Repl. Co., 13th Repl. Bn. /

in the case of Pvt. John A. Foster

given at 1300 hours

14 May, 1945

Naples CID Office

in the presence of William B. Hutchinson, Jr. Agent, C.I.D.

Article of War

Officer taking statement: Terrell, under the 24th/ it is my duty to warn you of your rights in this case. You are not required to make a statement. You may remain silent. However, if you do answer my questions or make any statements, whatever you say may be used for you or against you should this investigation result in a trial. Do you understand what I have just said? (Answer) Yes. *WJT*

Statement:

In the afternoon of 16 April, 1945, at a place called the "Cantina", a wine shop in Capodichino, two colored American soldiers named John Foster and Horace La Point came up to me and asked me if I wanted to go someplace with them. They didn't say where they were going or what they were going for, and since I had been drinking vino I didn't bother to ask any questions but agreed to go along. I have known Foster and La Point since sometime in March of this year, and have always been on good terms with them. Foster was a quiet boy, didn't drink a lot, and never gambled. The only jewelry I can remember having seen him wear was a souvenir ring with the word "Italy" inscribed on it. Around 1330 hours of the same day Foster, La Point, two Italian civilians and myself left Capodichino and went to Naples where we boarded a train, at about 1600 hours. One of the civilians with us was about 30 years old, about 5'6" tall, weighed about 145 pounds, had 3 scars on his face, had black hair, limped a bit and wore suede shoes. The other was a boy about 20 years old, dressed in an Italian soldier's uniform, had curly hair and a small mustach, and was known to me as "VALIO". I had never seen the former prior to this time, but I have seen "VALIO" in Capodichino several times during the period I was AWOL there. I went to sleep on the train and when I awakened I found we had arrived at Nola, it then being about 1700 hours. All five of us sat around the station for about an hour, waiting for others to show up. Finally a crippled man, about 40 years old, wearing a G.I. raincoat, and having a rough ugly face came over to us with another weasel-looking man about 32 years old who was wearing knickers, had a wool knit hat on, and wore high boot-socks. I had never seen either of these latter two before, but I can recall that the crippled old man was called "Pop". I do not know where either of these latter two civilians live nor where they came from. It was about 1800 hours when the seven of us left the station and started walking along a road, in the general direction of Naples. Shortly thereafter we came to railroad tracks, whereupon we turned right and followed along quite a distance until finally we cut off to the right and took a dirt road. We walked along this dirt road and about 1000 yards after crossing a bridge we stopped at an empty cement house on the left, where we built a fire. By this time it was dark, and to the best of my knowledge none of us were armed. We waited about a half hour when another Italian civilian drove

Signature

Willie J. Terrell

Subscribed and sworn to before me

this day of 1945

(Name)

(Date)

FMG NATIUSA Form No. 7

SUMMARY COURT

CONFIDENTIAL

Incl. #8

//////////////////////////////////////Continued from Reverse Side////////////////////////////////////
up in a horse and cart. This man was about 40 years old, about 5'7" tall, and wore a dark overcoat. The horse was a large black one. The cart was a two-wheeled affair with all four sides closed in. In the cart was an Italian rifle, two shotguns, one of which was a single barrel but I cannot remember whether the other was a double-barreled gun or not, and a 32 caliber revolver with five rounds in it. The boy with the sores on his mouth took one of the shotguns, "Pop" took the pistol, and the cart driver and the man with the knickers each had the other two guns, but I cannot remember who had the rifle and who had the shotgun. Soon after the cart driver arrived seven of us left the house, the cart driver remaining behind, and we went back along the road which we had come, crossed the bridge and about 500 yards beyond turned left into the fields. We walked until we came to a farm house. It was about this time that I asked La Point just why we were out there and what was going to happen. La Point said we were going to the home of some rich man to steal some of his money. On reaching the farm house of this man Foster, La Point, "VAIO" and me went up to the door, looked around a bit, but did not make any attempt to enter. The house was in darkness, and since none of us were armed I refused to go through with the deal. It seemed to me like the Italians wanted us soldiers to break into the house and grab the owner of the house while they took his money. The other three civilians were hiding behind a haystack, and the four of us went over to them and said we weren't going to break in, so they said all right we would come back around 0400 hours the next morning and grab the man when he was leaving the house for work. When we got back to the barn where we had built a fire I said I was hungry so the cart driver suggested that we go with him to his house to eat. So Foster, La Point and me got into the cart, covered our heads with a piece of canvas and went to sleep. When I awoke I found we were in front of another barn, and the other four civilians were inside. The cart driver, Foster, La Point, and me went inside and us soldiers drank some wine, but none of us drank enough to get drunk. While we were drinking all of the Italians were loading the cart with bags of stuff, pieces of leather, and two large jugs of wine which they had taken from the barn. It looked to us as though they had broken into the barn while us soldiers were riding around in the cart. After the wagon was filled all eight of us moved off onto the road near the barn, where we turned left. "Pop" and the kid with the sores on his mouth were carrying flashlights. I do not recall crossing the bridge aforementioned. We were all on foot, no one riding in the cart. The cart driver was leading the horse, on its right side. The man with the knickers and the boy with the sores on his mouth were walking a little ahead of the cart, and along the left side of the road. "Pop" was about 25 feet behind the cart, on the right hand side of the road. In back of "Pop" came the rest of us. Foster was on the extreme right hand side of the road; next to him was me; then came La Point; and alongside of La Point was "VAIO". The four of us were walking abreast of each other. All 3 of us soldiers had our overcoats hats down over our ears because it was cold. All of a sudden there was a loud blast of fire coming at us from the left hand side of the road and to our rear. It sounded like two reports from shotguns, both fired at the same time. As soon as we heard these shots we hit the ground, and I began crawling on my hands and knees to the right side of the road, and off into the adjacent field. La Point fell down on top of me and "Pop" landed next to La Point. I do not know where any of the others went, but I imagine that the cart driver continued leading the horse because both the cart and horse kept moving at the same gait. Just after I hit the ground there was another shotgun blast, which seemed to come from the same place where the first two had been fired. It was about then that I heard Foster moan once or twice. Just after the third shot, two men, speaking in Italian, came along the road from the same direction we had all come, walked over to Foster's body, stopped next to it for a second, and then continued on, singing. I was not able to see who these two men were but I believe they were the boy with the sores on his face and the man who wore the knickers. After they
//////////////////////////////////////Continued on next page////////////////////////////////////

CONFIDENTIAL

OFFICE OF THE PROVOST MARSHAL

CRIMINAL INVESTIGATION DIVISION

APO

U. S. Army

24th Repl. Depot, APO 781

STATEMENT OF

Pvt. Willie J. Terrell, ASN 54220903, 400th Repl. Co., 13th Repl. Bn.,

in the case of

Pvt. John A. Foster

given at

1300 hours

14 May, 1945

Naples CID Office

in the presence of

William B. Hutchinson, Jr. Agent, C.I.D.

Articles of War

Officer taking statement:

Terrell under the 24th/

it is my duty to warn you of your rights in this case. You are not required to make a statement. You may remain silent. However, if you do answer my questions or make any statements, whatever you say may be used for you or against you should this investigation result in a trial. Do you understand what I have just said?

(Answer)

YES

WJT

Statement:

////////////////////Continued from Previous Page////////////////////////////////////

passed us I crawled up to the road to look for Foster. I called to him but he did not answer. I found him lying on the right hand side of the road, on his back. I put my hand under his head to shake him, and as I did I got my hand full of blood. I crawled back to La Point and suggested that we take Foster with us, since he had been shot, but La Point said no because it would be too difficult. And since Foster was too heavy for me to carry there was nothing I could do but leave him there. It was now about 2400 hours, so La Point and I decided to leave the place. We took off across the field, and as we did I heard 3 or 4 more shots, which seemed to be directed at us and coming from the road where Foster had been shot. We finally came out on the Naples highway, and after walking a while we caught an English truck into Naples, arriving there around 0200 hours. It is my belief that Foster died almost instantly from a gunshot wound of the head. I also believe that he was shot by either the boy with the cores around his mouth or by the man who wore knickers, because they had been walking ahead of us and could easily have stepped off to the left hand side of the road, and waited in the weeds until we walked by and then fired at us. I do not have any idea why we were fired at. The next day I saw "VAIO" and the boy with the cores around his mouth in Capodichino, and they asked me where Foster was and I told them they should know. Not much else was said. I have never been given any compensation whatever for going out to Mola the night Foster was killed. I am certain that I can recognize the five Italian civilians that were with us the night Foster was killed. And in fact, the Italian boy, PASZERO Raffaele, shown to me yesterday, 13 May, 1945, by Agent Hutchinson, of the CID, is the kid called "VAIO" who was with all of us the night Foster was killed, and who was wearing an Italian soldiers uniform.////////////////////END////////////////////////////////////

21

Signature

Willie J. Terrell

Subscribed and sworn to before me
this 14th day of May 1945

Eugene O. Gramm
EUGENE O. GRAMM 1st Lt., Inf. C'm P
Asst. Chief Agent, C.I.D.

(Rank)

PMG NATONSA Form No. 7

SUMMARY COURT

CONFIDENTIAL

Incl. #8

T-R-A-N-S-I-M-I-T-I-O-N

20 May 1945, 1200 hrs, Naples, CID Office.

Before us, Hutchinson, CIA Agent and VBrig of the M. 10. General Giovanni, is present CARLO Visconti da Gerace and al Ruscattello Maria, born at Prignano Maggiore, 3 February 1915, residing at Capodichino, 134 Via Esprone, Calabate, lofer, who, upon being duly questioned, states as follows:

Through a shoe maker who lives at Capodichino and whom I know by name, I got acquainted three months ago with a civilian from Nola called Donato. The latter told me that he was the god-father of the shoe-maker's son at his confirmation.

Donato used to come to Capodichino every 10, 15 or 20 days. Since our friendship was unimportant, we used to meet without purpose, occasionally. Donato hobbles a little by his left foot.

After some time the 15th or 16th of last April, (I do not remember exactly which), as we met again at Capodichino, he asked me if I was willing to go to Nola to a country house which he would point out to me, where a civilian without one arm lives. From this civilian I should have got large sums of money because he is very rich. He added that I should not worry because he was in possession of all the arms necessary to the planned conspiracy. At that moment I rejected Donato's proposal and he said that he could do it without me because he had some friends in Nola and he would have carried out the conspiracy with them.

The following day, Donato came back to Capodichino and on seeing me he repeated the proposal of the preceding day. Again I refused and only suggested to Donato that I could send some friend. Donato accepted my proposal and before parting we made an appointment in Piazza di Capodichino at 1600 hrs, the same day.

On or about 1100 hrs, after parting from Donato, I went to Via Magliana at Capodichino and there I found a friend of mine of whom I do not know the name and to him I talked about the proposal of Donato, but this friend told me that he did not want to participate to this kind of illegal deal but that he could introduce me to a friend of his who would certainly accept the proposal.

On or about 1200 hrs, said friend introduced me, still in Via Magliana, to one Cassero Raffaele and to the latter I related what Donato had told me in the morning. Cassero accepted and upon his consent I asked him whether he knew other friends who would join in the enterprise.

Cassero told me that he was a great friend of three deserters, colored soldiers, belonging to the American Army and that he would have talked without failure to the three mentioned negroes to see whether they were willing to accept. I left Cassero after making an appointment at 1400 in Via Magliana.

Actually I met again Cassero at 1400 hrs in Via Magliana, and he went to call the three negroes so that all together we went to the country adjoining Via Magliana.

In said country I clearly explained to Cassero what he was to tell the three colored soldiers and Cassero, a little in Italian and a little in English asked the soldiers if they were willing to go to Nola to a civilian house, which would be pointed out to us by a man I knew, and to get from the owner of the apartment a large sum of money, since said owner is a very rich man.

The soldiers very happily accepted the proposal. They only made one objection: that they were not armed and in a business of this kind, arms are necessary. I settled this point assuring the soldiers that Donato had the necessary arms at Nola. Upon this assurance we parted from the colored soldiers making an appointment at 16 hours the same day in the Piazza di Capodichino.

I assured the soldiers and Cassero that I would be going with them to Nola, too.

At 16.00 hrs, as we had agreed, I met Cassero and the three colored soldiers at the corner Via Magliana-Via del Cassero and walking to the Piazza di Capodichino we were joined by Donato, and went to the Circumvesuviana Station, in Naples, where we got the train to Nola.

Incl. #9

During the trip Donato told the colored soldiers that they were to reach as soon as possible the appointed place because his friends were waiting for us.

We got to Nola toward 18.30 hrs and Donato told us to wait for him at the Circumvesuviana station of Nola while he was going to town to get a pistol for one of the three colored soldiers.

He came back a few minutes later and as a matter of fact he handed to the biggest one among the soldiers a loaded pistol, which if I am not mistaken is an American "Smith" and he ordered us to follow him to a country farm called "Riute Bispoli".

When we got there he told us to wait again because he had to go and see if his friends were there already. When he came back he told us that they had not yet arrived from Nola. He also told us that his friends would bring a cart drawn by a bay horse.

It was getting darker and Donato's friends did not show up. Feeling cold we took shelter in a room of the farm where we made a fire to warm ourselves. Then we went to sleep on some straw which lay there.

When we awoke it was already dawn and Donato's friends did not come, so we thought that we would get back to our homes in Capodichino. Before taking off, though, Donato told us that he would stay in Nola and that we were to come back again to Nola that same day towards 1900 hrs. At the time of parting from Donato the colored soldier who had received the pistol, gave it back to Donato.

We got to Capodichino towards 11.00 hrs and made an appointment at 1600 hrs in Piazza Capodichino. At 1600 hrs sharp, Insarero, the three colored soldiers and I started again on our pilgrimage to Nola and got there at 18.30. We did not find Donato at the station but he came for us at 1900 hrs, so we were obliged to wait for him almost 30 minutes inside the Circumvesuviana station of Nola.

We followed Donato towards the farm where we had been overnight and, past said farm, Donato told us to sit down on a bridge located in a country road and wait for his wished for friends to come.

We waited for about two hours and then a cart drawn by a bay horse arrived. On the cart there were two men, Donato's friends. He said hello and then the two men took from the cart a two barrels hunting gun, caliber 12, a one barrel hunting gun, caliber 16, a gun of the Italian Army, and a parcel containing the ammunitions for said arms. The pistol was already in Donato's pocket.

One of the newly arrived fellows, gave the two barrels hunting gun caliber 12, to one colored soldier, the other gun, one barrel, caliber 16, to another negro and the third negro got again the pistol from Donato. The same man also distributed to every negro an amount of cartridges for hunting guns and the cartridges were red.

After this, Donato pointed up to the three colored soldiers, a house which might be 500 yards away from where we were standing and he told them to go, all three together, to it, to knock at the door, and when the owner would open the door, to get hold of him, immobilize him and call us who would be waiting on the bridge.

Beside, Donato added to the three negroes, the man, owner of said house had his left arm missing. The soldiers accepted and with Insarero they walked to above said house.

Without starting any conversation, Donato, Alfonso, the other man and I, sat waiting for their return or for their call, on the bridge.

After some thirty minutes, the three colored soldiers and Insarero came back from the country house and told us that they could not do anything because they had knocked at the door but nobody had opened.

They handed back the arms. Donato took the pistol, Alfonso, the two barrels hunting gun and their friend the one barrel hunting gun with all the ammunitions.

Then the three negroes said that they were hungry because they had not had anything to eat. Donato's friend answered that he would immediately take them to Nola where he would have taken care to prepare a light meal, but Alfonso rejected his friend's proposal saying that there was no need at all to go to Nola because we were to make another raid in another farm and we might easily find there something to eat.

We all agreed on what Alfonso said and we set out at once towards the new farm located near Nola. While we were walking Donato and Alfonso's friend gave me the one barrel hunting gun with 3 or four reserve cartridges, while Alfonso carried the other gun on his shoulder. At a certain moment Alfonso told us to stop and told me and Passero to follow him while the three colored soldiers, Donato and the other fellow with the cart and the horse, remained on the road.

We three got to the farm, at a little distance from the main road and Alfonso with a special implement opened a door and after he entered the building he told me to call Donato and the others with the cart. When the cart and the rest of the gang, came in, Alfonso told me to give the gun I was holding, to his friend and to take some empty sacks from the cart because we were to load potatoes and other stuff.

Two of the negroes, Passero, Alfonso and I filled in two sacks of potatoes which lay on the ground in a storehouse, then we loaded on the cart two drums full of wine, a leather horse harness, almost new, a shovel and in another room we filled one and a half sack of corn and some 10 rolls of wire. While the two negroes, Passero, Alfonso and I were loading the cart, Donato, the other negro and the other fellow, friend of Alfonso and Donato, stood on guard. Besides above said stuff, we found also two loaves of bread which we shared between us.

Alfonso's friend pulling the horse by the traces, took it to the main road on the way to Nola. We all walked behind the cart. After some words exchanged between Donato, Alfonso and their friend, we started on our way to Nola. Ahead went Alfonso's friend, leading the horse and the cart loaded with all the above-said stuff, and walking on the right side of the road. He and a half yard behind the cart, walked the three negroes and on their right, at the same level, Passero walked, I walked a yard behind Passero and at about 20 yards away from me, on the right side of the road walked Donato, armed with a pistol. Along the left border of the road between the road and the country, walked Alfonso, armed with a two barrel gun.

We walked in said order for about 10 minutes and suddenly Alfonso opened fire in our direction, with his gun, and at the same time also his friend, who was leading the horse and was armed with a one barrel hunting gun, opened fire in the direction of the three negro soldiers, Passero and me.

At the shooting of the two crazy fellows I threw myself immediately over the right border of the road on to the open country and hid among the grass where I remained until the following morning. Then I went back to Capodichino.

I did not notice whether during the shooting anyone got wounded or if they escaped.

While hiding in the country, I heard the carrier instigate the horse to make it run and as I heard the rattle of the cart drawn by the horse at full speed, the shooting lessened and faded away in the direction of Nola.

At the first shot I was hit by a lead bullet at my right hand thumb and the wound did not bear serious consequences because it healed in few days.

On the following morning, after spending the night hidden in the country, I got the Circumvesuviana train and got back to Capodichino where during the day, towards 17.00 hrs I met two of the three negro soldiers and they informed me that their friend had got killed during the shooting of the preceding night at Nola.

Incl. #9

- Q.A. The reasons which caused the shooting by Alfonso and his friend I believe to have been to the purpose of making us run away and not give us the share we should have had of the theft.
- Q.A. I recognize the two colored soldiers whom you have shown to me in this CID Office as two of the three negroes who came with me to Rome to the purpose of carrying out the above mentioned thefts.
I have nothing else to add and in faith to what I have stated above I undersign.

s/ Carbone Vincenzo
s/ Germani Giovanni, VBrig.

Translated By:

Lydia Tetr

TETI LIDIA,
CID Interpreter.

TRANSLATION

17 May 1945, 1500 hours, on the farm at Nola, before us Hutchinson, CID Agent, and VBrig. of the CC.RR. Germani Giovanni, is present CORRADO Arcangelo di Antonio and di Spezia Pasqualina, born 12 September 1923, Cicciano and thereat residing 51 Via Antonio Del Duca, farmer, who, after being duly questioned, states as follows:

Sometime ago, I do not recall the exact date, while I was at my farm, at or about 1930 hours, there appeared seven or eight civilians. Only one of them, the one who was carrying a rifle, spoke to me. I think the rifle belonged to the American Armed Forces.

The armed civilian told me that if I did advance for one more step, he would shoot at me and he compelled me to retreat.

I walked away from the civilian for about 20 meters, and he fired two shots in the air.

After they had stayed for a few minutes they left without further incidents.

I have nothing else to add or amend and in faith to the above statement I undersign.

A TRUE COPY:
VBrig. Germani G.

s/ Corrado Arcangelo
s/ Germani Giovanni, VBrig. CC.RR.
s/ Hutchinson, Agent CID

TRANSLATED BY:

Edith Buxbaum
EDITH BUXBAUM
CID Interpreter

TRANSLATION

20 May 1945, 1000 hrs, Naples, C.I.D. Office.

Before us, VBrig. of the P.R.C.C. Germani Giovanni, is present DE ROSA Carmine fu Domenico and di Pacchiana Rosa, born at Cimitile, 1-3-1897, residing at Nola in the farm at #10 Bosco Fangone, farmer, who, upon being duly questioned, states as follows:

For about three years I have been working as a farmer in a land belonging to one Vitale Francesco from Nola. In this land stands a large farm where I have always kept in store various items and part of the wheat necessary for sowing time, some wine and the tools for country work. In said farm, my family and I sleep only in summer when there is more work to be done for the country, and during the summer crop, but during the winter, in the evening we get back to our lodging located at Strada Bosco Fangone. On the morning of 16 or 17 April, I do not remember the exact date, while I was going to work in Vitale's land, I noticed when I got to the house, that the door of the storehouse was open but did not bear any mark of having been forced. I guessed immediately that some thieves during the night, had been in the farm. I also noticed that two drums full of wine, holding 50 litres each, were missing as well as 200 pounds of potatoes, 300 pounds of corn, 20 pounds of wire necessary for the wine-trees, 300 pounds of manure, a shovel and a leather horse harness.

I must specify that above said wheat and corn were stored in another room, adjoining the storehouse of which the door had been opened. The total value of the missing material is of about 27,450 liras and in particular, the cost of each item is: potatoes 2,000 liras, corn 7,500 liras, wine 200 liras, manure 4500 liras, harness 10,000 liras, the shovel 200 liras. I did not breed suspicions in any one because every night, thefts of all kinds are carried out in the area and the thieves are numerous and it is very hard to identify them. For this reason I did not denounce the theft to the local Carabinieri. I was sure that I would be wasting time without getting back the lost property. I have nothing else to add or amend and in faith to what I have stated above I undersign.

s/ De Rosa Carmine
s/ Germani Giovanni VBrig.

TRANSLATED BY :

Lydia Teti

LYDIA TETI,
CID Interpreter.

L'anno millenovecentoquarantacinque, addì 20 Maggio, ore 10, in Napoli, nell'Ufficio del C.I.D., avanti di noi VBrig. dei CC.RR. GERMANI Giovanni, e' presente DE ROSA Carmine fu Domenico e di Pacchiana Rosa, nato a Giattile il 1-3-1897 e domiciliato a Nola nella Masseria Bosco Fangona No 10, contadino, il quale opportunamente interrogato dichiara quanto segue:—

Da circa tre anni lavoro in qualita' di colono un appezzamento di terreno di proprieta' di tal VITALE Francesco, da Nola. Nel tenimento in parola esiste una grande masseria ove vi ho tenuto sempre depositato generi vari e parte del frumento necessario per la semina ed anche del vino compreso gli arnesi necessari per lavorare la campagna.

Nella masseria in parola io o la mia famiglia ci dormiamo soltanto l'estate quando e' aumentato il lavoro per la campagna e durante la raccolta estiva, ma per l'inverno quando e' a sera facciamo ritorno nella nostra abitazione fissa sita nella strada Bosco Fangona.

La mattina del 16 o 17 Aprile c.a., non ricordo la data precisa, nel recarmi al lavoro nella campagna del VITALE, giunto nella abitazione, notai la porta del magazzino aperta ma senza alcun segno di scasso, immaginai immediatamente che dei ladri durante la notte fecero una visita nella masseria e difatti notai l'ammacco di DUE tanigiane piene di vino di 50 litri ognuna, circa un quintale di patate, un quintale e mezzo di granturco, 10 chili di filo di ferro necessario per le vite di uva, 150 chili di concime, una zappa e un fienamento di cuoio per cavallo, mancante la testiera, in buono stato.

Preciso che il granturco ed il fienamento in parola trovavasi in un'altra stanza attigua al magazzino ove la porta era stata sforzata per aprirla.

Il valore complessivo del materiale mancante ammonta a circa L.27,450 e precisamente il costo di ogni genere e' per le patate L.2.000, il granturco L.7,500, il vino L.2.000, il filo di ferro L.200, il concime L.4.500, il fienamento L.10.000 e la zappa L.200.

Non destai sospetto su alcuno poiche' tutte le notti si verificano furti di ogni specie nella zona e pertanto i ladri sono in numero elevatissimo e difficile a individuarli. Per tale ragione non denunciai il furto ai Carabinieri locali perche' ero sicuro di perdere del tempo senza recuperare il materiale perduto.

Non ho altro di aggiungere o da variare ed in fede di quanto sopra mi sottoscrivo.

De Rosa Carmine
Germani Giovanni Brig.

TO C.I.D. Office - Naples

The undersigned surgeon informs your office that on the 20th of April 1945, while he was coming back from Madonna delle Grazie where he had gone to for a visit, he was called by a young man whose generalities he does not remember and invited to walk back and give medical attention to Luigi DE MARTINO who had been taken by a fit. He walked to DE MARTINO's house and found the latter still dressed, lying in bed in agony. He had hardly time to give him a shot of spartocamphor and the man breathed his last. From the anamnesis gathered from the family it was revealed that DE MARTINO had been suffering for a few days but he had continued to go to work in the fields where he had suddenly been seized by a pain on his chest and was breathless and sweated cold. He had therefore been taken home in a cart and he had died before my eyes without allowing time for any emergency aid.

The examination of the abdomen and thorax did not reveal any mark of violence nor did his face and scalp reveal marks of lesions or blood-stains or traces of medical treatment.

The undersigned did not notice anything suspicious, the more so since the symptoms described by the family corresponded to the symptoms of angina pectoris with stricture of the coronaries, and such was the diagnosis entered on his tag as the cause of his death.

Besides, the undersigned was not aware of the penal record of Demartino and had therefore no reason to breed suspicious. At any rate the undersigned holds that the actual cause of De Martino's death was angina pectoris with stricture of the coronaries, also because marks of violent lesions were not visible anywhere on the thorax, the abdomen and the head.

Read, done, undersigned.

Nola, 13 Sept. 1945.

s/ Dr. Scala Antonio fu Achille
and di Andreoli Giuseppina,
born at Liveri (Naples), 14
May 1895, residing at Nola,
N.6 Via Anfiteatro Marmoreo.

Translated By:

Lidia Loh
FETI LIDIA,
CID Interpreter.

The year 1945, the 7th of August, 10 hrs, Naples, C.I.D. Office.

Before us Hutchinson, C.I.D. Agent and V. Brig. Germani Giovanni, is present VITALE Carmine di Francesco and di Trinchese Angela, born at Nola on the 1st of September 1913, residing at civitate N. 8 Via Corso Nuovo, farmer, who, upon being duly questioned, states as follows:

In the night between 16 and 17 April, I went to visit my father's farm called "Bosco Fangosa" in order to avoid that thieves should loot it, since in the night between the 15th and 16th of April in a farm near the above mentioned one, which belongs to MIO Felice, a machine necessary to water the country had been stolen. I inspected the country near the farm and when I got at about 200 yards from the above said farm I noticed lights both upstairs and downstairs. Since the house was not inhabited at night I suspected that thieves had gathered there on some theft.

Being alone, I certainly could not face the thieves. I had heard the sound of many voices coming from the house and since I believed that the shot gun which I was carrying (a 16 caliber) would not consent me a good defence, I walked back to call for my brothers Antonio and Salvatore.

I told them about the matter and they asked for the time necessary to get dressed because they were in bed. In the meantime I walked alone back to the farm.

A few minutes later my two brothers Salvatore and Antonio, reached me near the farm. Each of them was armed with a shot gun caliber 12.

While we were trying to plan what we were going to do, we saw that a cart was leaving from the house, towards the "Strada Comunale".

In order to try and identify some of the members of the gang we ran across the fields and went to the border of the Strada Comunale where we hid ourselves among the wheat at about 5 or 6 yards from the road.

When the cart got near we noticed that it was drawn by a horse and that the man who was leading it, was holding the bridles in his hands and walking by it. The cart was followed by 8 or 7 persons that we could not identify because of the wheat that hindered the view and because there was no moonlight. After the members of the gang all passed before us and walked some 25 yards ahead, my brother Salvatore fired two shots in the direction of the cart and my brother Antonio fired only one shot because the second did not go off.

I did not fire at all because I did not believe it necessary and because at that moment I cooled down and had not the courage to shoot.

The thieves fired back at us several shots which were probably pistol shots, without reaching us.

Seeing that they were stronger, we ran away availing ourselves of a pause of the shooting started by the thieves. We went all back to our homes.

On the following morning I was surprised at learning that on the place where the shooting had taken place on the previous night, the corpse of an American colored soldier had been found. I did not take much notice of the fact because I did not feel in my soul that we could have caused the death of a soldier with our arms also because in the area of Nola soldiers of the American Army were never stationed.

For this reason I did not believe that American soldiers might have participated to the theft in the above mentioned farm.

I have nothing else to add and in faith I undersign.

Translated by:

Lydia Teti

Lydia Teti

Interpreter CID.

/s/ Vitale Carmine

/s/ Germani Giovanni V. Brig.

Incl. #13

The year 1945, the 7th of August, 9 hrs, Naples, CID Office, before us Hutchinson, Agent CID and VBrig. Germani Giovanni, is present VITALE Antonio di Francesco and di Trinchese Angela, born at Nola, 15 March 1912, therent residing at N.286 Via Nazionale delle Puglie, farmer, who, being duly questioned, states as follows:

In the night between 15-16 April, in a farm belonging to Meo Felice, which lie next to my father's farm, a machine necessary to water the country was stolen. My brother Carmine, in order to prevent some similar theft inspected my father's farm in the night between 16-17. When Carmine got at about 200 yards from the farm located in "Contrada Ruoppolo" he noticed that there were lights both upstairs and downstairs. Since the house at night was uninhabited, my brother Carmine suspected that some thieves were gathered there on some theft. Being alone he could not face the thieves. He had heard the sound of many voices coming from the house and he feared that his shot-gun would not consent him - good defence, so he walked back and called for me at home. Informed of the matter I asked for the time necessary to get dressed.

In the meantime my brother Carmine walked back to the spot and I went to the house of my brother Salvatore asking his help in defence of our father's property. Salvatore got dressed and came with me rightaway.

I had a gun-shot caliber 12, and my brother Salvatore had a similar gun. Since I had no cartridges, Salvatore gave me two of his. The cartridges were made at home, but I do not know they had been loaded. Salvatore told me that the lead was N.10.

When we got near the country house we found our brother Carmine and while we were trying to plan what we were going to do we saw that a cart was leaving from the house towards the "strada Comunale".

In order to try and identify some of the members of the gang, or at least recognize the cart or the horse, we ran across the fields and went to the border of the strada Comunale where we hid ourselves at some 5 or 6 yards from the road.

As soon as the cart got near us we noticed that it was carrying merchandise and that a man was leading it holding the horse by the bridles, and walking byt it. The cart was followed by some 8 or 10 men walking in a file among whom we were unable to identify any, first because the view was hindered by the wheat in which we were hiding and next because of darkness.

Then all the party got 25 yards beyond us my brother Salvatore fired first 2 shots from his gun aiming at the group who was moving in the direction of Nola. I fired with my gun only one shot while the second did not go off. We did this for the only purpose of recovering the stolen material but the thieves fired back at us with pistols and other arms that I could not recognize. Realizing that we could not cope with them we ran away profiting by a pause in the shooting and every one of us got back to his home. On the following morning I was surprised to learn that on the spot in which the shooting had taken place the corpse of an American colored soldier had been found.

Q.A. The gun cal .12 which you have shown to me in this CID Office, make "Fine Damascus Belgium", double barrel, belongs to my father, but since he is very old I am using it personally.

The above said gun was used by the undersigned in the night between 16-17 April.

I have nothing else to add or amend and in faith to what I have stated above, I undersigned.

11

s/ Vitale Antonio
s/ Germani Giovanni, VBrig.

Translated By:

Lucia Leta
TETI LIDIA,
CID Interpreter.

Incl. #14

The year 1945, the 17th of August, 1600 hrs, Naples, C.I.D. Office.
Before us Hutchinson and Buttimore Agents C.I.D. and Germani Giovanni, is present VITALE Salvatore di Francesco and fu Napoletano Carmela, born at Nola, 26 March 1899, thereat residing at #208 Via Nazionale delle Puglie, farmer, who, upon being duly questioned, states as follows:

"I have made up my mind to amend what I have formerly stated about the facts which occurred in the night between April 16 and 17 and I am going to relate exactly everything.

Since in the night between 15 and 16 April 1945 from a farm belonging to MEU Felice close to my brother's farm, a machine for the irrigation the fields had been stolen, in order to avoid that another theft of the same kind should be committed in his own farm, my brother Carmine inspected it. When he got at about 150 yards from the country house of the farm, he noticed that there were lights both upstairs and downstairs. Since the house was uninhabited my brother was certain that thieves were gathered there on some theft. Being alone he certainly could not face the thieves. He had heard the sound of many voices coming from the house and he feared that his shotgun would not consent him a good defence, so he walked back and called for my other brother Antonio. The latter, informed of the matter, asked for the time necessary to get dressed.

In the meantime my brother Carmine walked to the spot and Antonio called on me urging me to help them to defend the property of our brother and although I had a chill on my face I felt that it was my duty to help my brothers.

Since my brother Antonio had a gun but no cartridges, I took my gun and 5 cartridges two of which I gave to my brother Antonio keeping the other three for my own gun.

I must here note that the cartridges were common shot gun cartridges made at home with bullets N. 10.

When we got near the country house we found our brother Carmine and while we were trying to plan what we were going to do we saw that a cart was leaving from the house towards the "strada Comunale".

In order to try and identify some of the members of the gang, or at least recognize the cart or the horse, we ran across the fields and went to the border of the strada Comunale where we hid ourselves at some 5 or 6 yards from the road.

As soon as the cart got near us we noticed that it was carrying merchandise and that a man was leading it holding the horse by the bridles, and walking by it obviously because he had to be prepared against some surprise and was certainly carrying an aim in his other hand. The cart was followed by some 8 or 10 men walking in a file among whom we were unable to identify any, first because the view was hindered by the wheat in which we were hiding and next because of darkness.

Only when I was sure that no member of the band had been left behind and when they got 25 yards further ahead, I fired in the direction of the road, aiming at the cart, "two" shots from my gun while my brother Antonio fired one shot and the second shot did not go off.

We did this for the only purpose which I now acknowledge to have been childish, of scaring the thieves and try and get back the stolen merchandise, but they fired back against us several shots without however hurting us.

Realizing that we could not cope with them we ran away profiting by a pause in the shooting which the thieves had started. Each of us got back home and a little later I went to bed. About an hour later I heard a cart pass along the National road in which I live, a cart which made the same rustling noise characteristic of the other which we had seen full of the stolen merchandise, but now it was unloaded. The suspicion that this cart was the same that had been used by the thieves to haul the stolen merchandise, is strengthened by the fact that some 50 yards behind it a man was running at the same speed of the cart itself while the carrier was probably lying at the bottom of it because I was not able to see his figure.

Since the theft had not been conducted against me and since between my brothers and I there is not such a cordial friendship as to justify my interference, I did not take the trouble to verify personally the importance of the theft which my brother Antonio had suffered. My two brothers have remained with my father for many years after my marriage, therefore they carry on the work for my father who is elderly and unfit to work.

Q. A. - On the following morning I was surprised to learn that on the spot in which the shooting had taken place the corpse of an American colored soldier had been found with a gun shot on the head and this because in the village as well as in the surrounding area colored soldiers have never been stationed.

Since the three shots we fired were shot with bullets N. 10 whereas the colored soldier was killed with a pistol shot, I never thought that this death was due to me and I never left my home.

Q. A. - The gun that you are now showing me is my own and I bought it to replace the one that the Germans took away from me.

It is necessary to keep an arm at home owing to the continual thefts and larcenies carried out in my village and surrounding villages and to the necessity of preserving one's own personal and patrimonial safety.

I have nothing else to add or amend and in faith to what I have stated above I undersign.

/s/ Vitale Salvatore
/s/ Germani Giovanni V. Brig.

Translated by:

Lydia Teti

Lydia Teti
Interpreter GIB.

The year 1945, the 17 August, 17.30 hrs, Naples C.I.D. Office. Before us HUTCHINSON, Agent of C.I.D. and V.Brig. of CC.RR. GERMANI Giovanni, is present BARBATO Francesca fu Arcangelo e fu Dragone Angela Rosa, born at Camposano 4-11-1894 and residing at Nola #208 Via Nazionale delle Puglie, domestic, who, upon being duly questioned, states as follows:

On the 16th or 17th of July 1945, the Carabinieri of Nola proceeded to the arrest of my husband VITALE Salvatore. Since in our lodging my husband was keeping a shot gun caliber 12, fearing that the above said Carabinieri should come again and find the said arm, I personally took care to transport it to a farm of my own, named "CAMPOSANO".

I left it there until last night when, in your presence, I pointed it out hanging from a tree in a field.

Q.A. I am sure that the shot gun which you have confiscated last night in my farm, belongs to my husband VITALE Salvatore.

I have nothing to add or amend and in faith to what I have stated above I undersign.

s/ Barbati Francesca
s/ Germani Giovanni, VBrig.

Translated By:

Lydia Teti
Lydia Teti

Interpreter CID.

Incl. #16

The year 1945, the 11th of August, 16 hrs, Naples, CID. Office, before us Puttimore J. Dennis, Hutchinson Wm. B. Jr. C.I.D. Agents and V. Brig. of the C.U.M. Germani Giovanni, attached to this office, is present IOVINO Donato in Leonardo and fu Nappi Fortuna, born at Saviano, 15 Sept. 1896, residing in Nola, N. 15 Via Principessa Margherita, who, upon being duly questioned, states as follows:

In this past period I have often visited the house of one MOSCATIELLO Maria, residing in Capodichino where I know also one PERNA Luigi who is my god-child.

I got friendly with Vincenzo CARBONE, the son of MOSCATIELLO, who introduced to me a friend of his, PASSERO Raffaele.

The latter had relations of friendship with some colored soldiers of the American Army who visited Capodichino. On April 15, 1945 one De Martino Luigi, a carrier from Nola came to Naples where I was and asked me to introduce to him the above said negroes in order to associate them to an enterprise to be carried out in the country of Nola. I spoke of this to CARBONE and the latter spoke to PASSERO who took care of informing the negroes who accepted.

We made the necessary arrangements and in the evening we left Capodichino for Nola: PASSERO, CARBONE, the three negroes and I. When we got to Nola, at about 18.30 hrs I left the others in the Circumvesuviana station and told them to wait for me while I was going to inform Luigi the carrier of our arrival at Nola. I came back ten minutes later and led them all to a country place where we sat waiting for Luigi. In the vicinity there was a desert country house and there we stopped and made a fire to warm ourselves while we waited for Luigi.

We waited until morning and finally, since Luigi had not come, we went away. The negroes, PASSERO and CARBONE came back to Naples, I remained in Nola and told the others to come back in the evening.

Actually at 18.30 hrs of the 16th I went to the Circumvesuviana Station of Nola to meet PASSERO, CARBONE, and the three negroes who were coming from Naples.

All together we went to a place in the country which we had previously chosen and there, at about 21 hrs DE MARTINO Luigi and a friend of his GIULIANO Alfonso joined us taking with them a cart.

The cart stopped on the road where I remained also with DE MARTINO, GIULIANO and CARBONE, while the three negroes with PASSERO went to the house of CORRADO Arcangelo who lives in the vicinity, in order to try and take from him a million that we knew he was keeping at home.

A little later, however, the negroes and PASSERO came back and told us that nothing had been done because CORRADO had not opened the door.

Then the negroes said that they were hungry and Luigi replied that in Nola he would have given them something to eat. However, on our way back Luigi, Alfonso and I planned to go to the farm VITALE because we knew that we would have certainly found there something to eat.

So we did and we only took some bread and a little wine and corn, altogether some 100 lbs.

We ate the bread and drank the wine immediately, then we started towards Nola.

On the road we walked in the following order;

The cart went ahead with Luigi and Alfonso: behind the cart walked CARBONE; at about 4 or 5 yards distance followed PASSERO and one negro; at

about 10 yards from the latter I followed with two negroes.

Suddenly and unexpectedly I heard several shots coming from the left side of the road behind us.

I can say that I distinguished clearly first a discharge of machine gun, then rifle shots and last shots from a hunting gun. I cannot tell how many shots were fired but I remember that they were a lot and I heard the bullets hiss before my head and even distinguished the light of the missiles.

I immediately threw myself to the ground on the right side of the road and the two negroes did the same. We hid ourselves in the field bordering the road.

Besides, fearing that the negroes should get hurt, put a hand on their head and pushed themselves down flat so that the assailers should not see them. We remained motionless for 5 minutes until I heard that some persons were getting near the road speaking excitedly. I with-drew my breath not to be perceived and so I could see three persons coming out of the field into the road. I did not notice any particular sign in those persons, but I heard clearly that one of them said aloud: "Carmine, they have all run away, let us run with the rifle."

Soon after, these three persons walked away rapidly following the cart and three or 4 minutes later I heard more shots which I recognized as rifle shots and hunting gun shots.

I kept hiding a few more minutes and then I left the field.

The negroes hid themselves in a farm and I did not see them again.

The following morning I learned that Luigi had got wounded and two days later I also learned about the death of the negro.

Q. A. I recognize the voice that I have now heard, as the voice that in the night between 16 and 17 April 1945, in the above mentioned circumstance, uttered the words:

"Carmine, they have all run away, let us run with the rifle".

I do not know personally the person who spoke and who I am told is Vitale Antonio di Francesco, from Nola. I have nothing to add or amend and in faith to what I have stated above I put down my cross-mark, being illiterate.

his
Iovino (x) Donato
mark

/s/ Germani Giovanni V. Brig.

Translated by:

Lydia Teti

Lydia Teti

Interpreter CID.

The year 1945, 11 August, 18 hrs in Naples, in the C.I.D. Office, before us Agents BUITMORE J. Dennis, HUTCHINSON Wm. B.Jr, Agents CID and CC.RR. GERMANI Giovanni, is present GILIANI Alfonso fu Baldassare and di Giuliano Anna, born at Piazzolla 9-7-1919 and living at Nola #30 Min Tommaso Vitale, who, being duly questioned states as follows:

In the evening of the 16 of April 1945, one DE MARTINO Luigi from Nola asked me to go with him to Nola on an anteprize to be carried out with three negroes and other friends from Naples.

We went with DE MARTINO to a country place which DE MARTINO had already appointed.

It was about 21 hrs when we got to said place and we found IOVINO Donato, PASSERO Raffaele, CARBONE Vincenzo and three American colored soldiers. We had taken with us a cart belonging to DE MARTINO. The cart stopped on the road where I remained also with CARBONE, DE MARTINO and IOVINO while the three negroes with PASSERO went to the house of CORRADO Arcangelo who lives in the vicinity in order to take away from him a million that we knew he was keeping at home. A little later however, the negroes and PASSERO came back and told us that nothing had been done because CORRADO had not opened the door. Then the negroes said that they were hungry and Luigi replied that in Nola he would have given them something to eat. However, on our way back, Luigi, DONATO and I planned to go to the farm VITALE because we knew that we would have certainly found there something to eat. So we did and we only took some bread and a little wine and corn, altogether some 100 lbs. We ate the bread and drank the wine immediately, then we started towards Nola.

On the road we walked in the following order: The cart went ahead with Luigi and me; right behind the cart walked CARBONE, at about 4 or 5 yards distance followed PASSERO and one negro, behind them, at some distance, walked IOVINO and two negroes. Suddenly and unexpectedly I heard several shots coming from the left side of the road, behind us.

I can say that I distinguished very clearly, first a machine gun round, then rifle shots and last, gun shots. I cannot tell how away shots were fired but I remember that they were a lot and I heard the bullets hiss before my head.

I do not know what the other members of the band did, however I can say that Luigi and I started to run taking with us the horse and the cart. We ran for about 500 yards and then we heard a new shooting behind us. In this second shooting I only distinguished rifle and gun shots.

At this time Luigi told me that he was hurt and I gave him my handkerchief to stop his blood. We continued to run until we reached Luigi's house. There I saw that Luigi had been wounded by a gun shot and bore marks of bullets, about six or seven, on the back of his head, on the left side,, and another small bullet wound on his left wrist.

Two days later I learned about the death of the negro soldier which I was told (I do not remember by whom) had occurred during the above mentioned episode.

Five days later I learned that also De Martino Luigi had died.

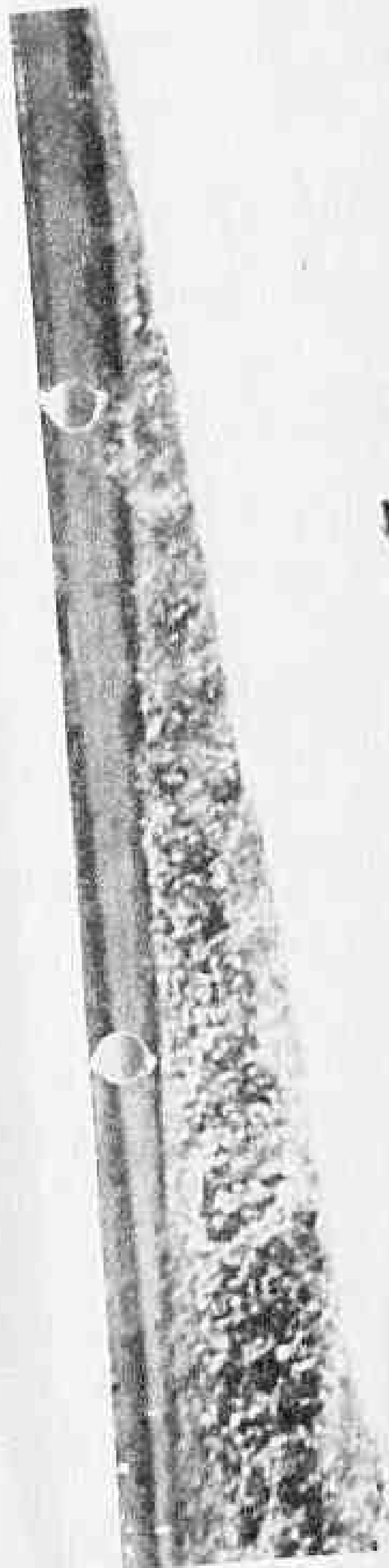
I have nothing to add or amend and in faith to what I have stated above I put down my cross-mark, being illiterate.

his
Giuliani (x) Alfonso
mark
s/ Germani Giovanni - VBrig.

Translated By:

Lydia Dati
TEFI LEDIA,
CID Interpreter.

Incl. #18





785016

Photograph of body of Pvt John A. Foster ASN 34065987, taken from field at West side of Via Bosco Favola, Nola, exactly as found by Pvt James Finney (Br)

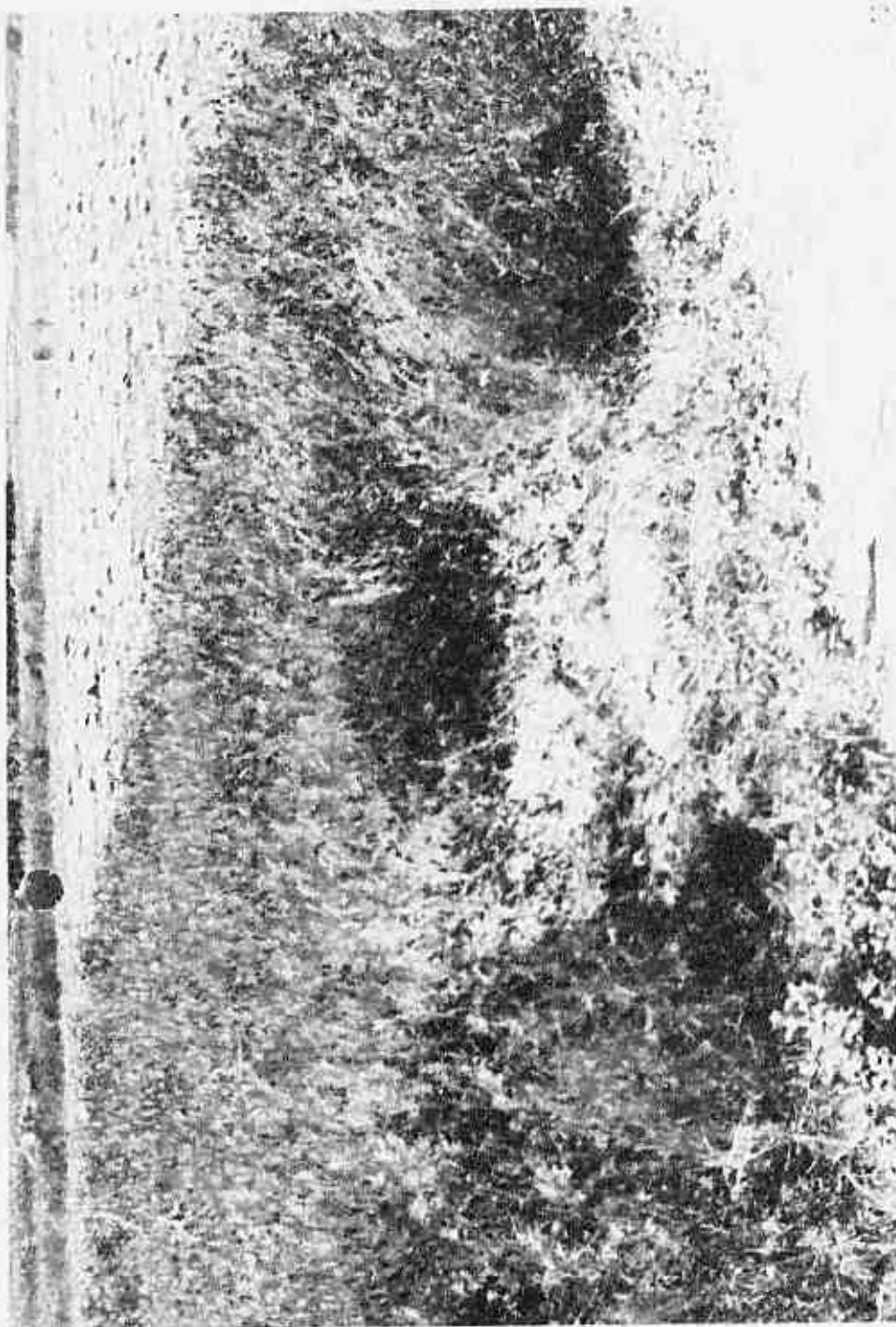
EXHIBIT # 2

Photograph of body of Pvt. John A. Foster, ASN 34065987 taken from center of Via Bosco Favola, Nola- body is on the West Side of the road- exactly as found by Pvt James Finney (Br)

Photograph of body of Pvt. John A. Foster, ASN 34065987 taken from center of Via
Bosco Favola, Nola - body is on the West Side of the road - exactly as found by
Pvt James Finney (Br)

EXHIBIT # 1





Photograph of section of clover field at West side of Via Bosco Fangola, Nola, showing crushed weeds. This spot, about 10 feet where the body of Pvt. John A. Foster was found, is where Pvt Terrell, Pvt La Point and IOVINO Donato hid after the shooting.

EXHIBIT # 4

Close-up photograph of body of Pvt John A. Foster, ASN 34065987, taken at the Western most edge of Via Bosco Fangola, Nola, exactly as found by Pvt. James Fenney (Br)

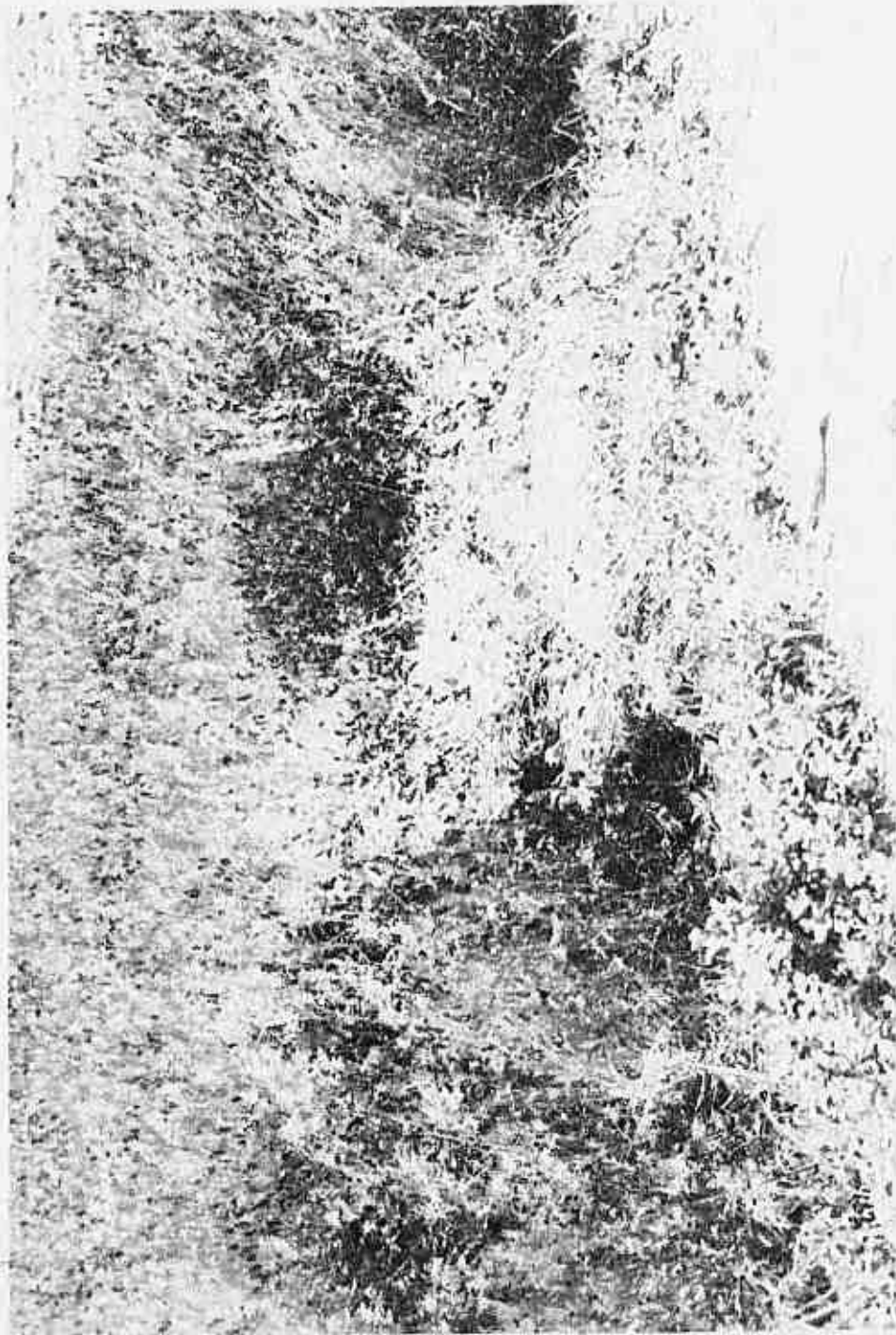
Note: Head lying in pool of blood.



Close-up photograph of body of Pvt John A. Foster, ASN 34065987, taken at the Western most edge of Via Bosco Favgola, Nola, exactly as found by Pvt. James Fenney (Br)

Note: Head lying in pool of blood.

EXHIBIT # 3



Photograph of section of clover field at West side of Via Bosco Favzola, Nola, showing crushed weeds. This spot, about 10 feet from where the body of Pvt. John A. Foster was found, is where Pvt Terrell, Pvt La Point and IOMINO Donato hid after the shooting.

EXHIBIT # 4

