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MILITARY COURTS ON THE ISLAND OF ELBA
FEB. - MAY 1945

0512

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

FILE CLOSED 6 May 1945

24

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

13A

AC/4157/1.

WEB/ct.
6 May 1945.

SUBJECT : Elba cases.

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

1. Your RVIII/19/3008 of 2 May 1945 is acknowledged.
2. I agree that this rather unfortunate matter has now been satisfactorily cleared thanks to the work of the two officers mentioned by you.
3. I do not feel that I can write a letter about Major REILLY who is not under my command but I am grateful for your suggestion about Major HILL.

By command of Rear Admiral STONE :

W. E. REILLY,
Colonel, J.C.
Deputy Chief Legal Advisor.

4157

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

13B

File Ref: RUM/14/3008

Date: 2 May 1945.

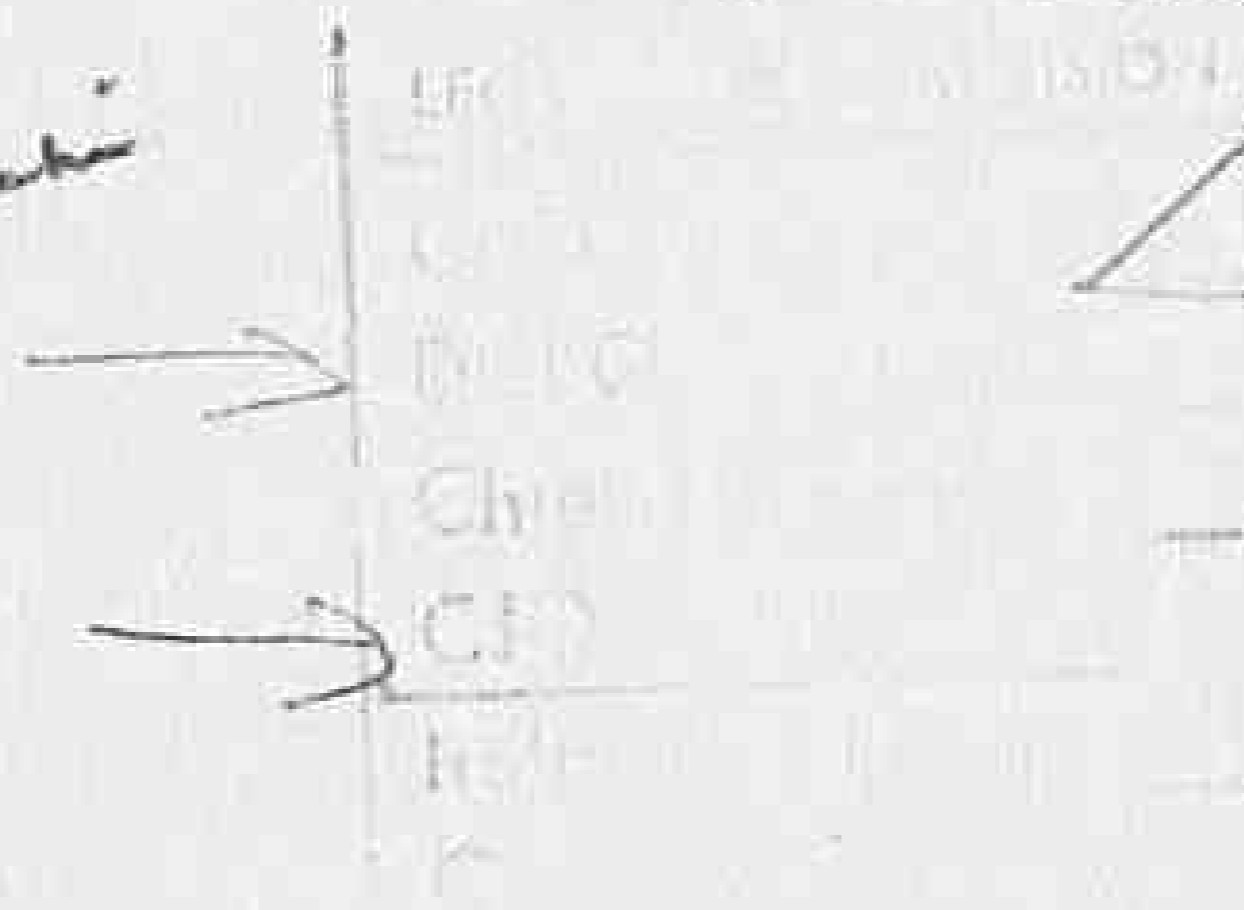
SUBJECT Elba cases.

TO : Chief Legal Advisor, Headquarters, AC.
(Attn: Colonel BEHRENS)

1. The attached copy of a letter relating to the Elba cases is sent for your information.
2. In this connection, in my opinion, Majors Robert Hill and Harold V. Reilly did an exceptional piece of work in disposing of this matter. If you are in accord, a letter of commendation to be filed with the 201 files of these officers has been merited. If written by you, a copy to each officer concerned no doubt would be highly prized.

For the Regional Commissioner:

B/F for
reconsideration
1/6
=



[Handwritten Signature]

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

1. You is acknowledged
2. I agree that this rather unfortunate matter has now been satisfactorily cleared thanks to the work of the two officers mentioned above.

5 MAY 1945

3. I do not feel that I can write a letter about Major Reilly who served under my command but I am grateful for your suggestion about Major Hill.

13e

HEADQUARTERS
LIVORNO PROVINCE
ALLIED MILITARY GOVERNMENT

Subject: Decision on review.

26 April 45

To : Headquarters, Toscana Region,
Allied Military Government,
(Attn: Regional Legal Officer)

1. Enclosed herewith are receipts covering decisions on review of cases tried by Capt R.K. Smith.
2. All those effected have been notified and the fines refunded. Forms attached were used for this purpose.
3. In regards to the fines Capt. R.K. Smith did not use his F/F 1 receipt forms and no entry of fine collections appear either in the Cash Book or in the Bank deposits. However, the Pretore had L. 2700 of fines which were turned over to him by Capt. Smith. This 2700 has now been turned in to this H.Q. and F/F 1 receipts given.
4. The following persons, whose convictions were squashed, held receipts in various forms from Capt. Smith and the total of L. 30.300 will have to be accounted for by him;

Bardi Giuseppe	Lire 25000
Pagni Assunto	" 5000
Mori Lorenzo	" 300

Finance Sub-Commission, A.C. is investigating this shortage.

Harold V. Reilly
Major. A.U.S.,
Provincial Commissioner.

Incls: 2 letters from H.Q., AMG Island of Elba,
advising revision of sentence dated 21 Mar 45.
18 Decisions on Review.

23

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

12A
21 March 1945.

AG/4157/L.

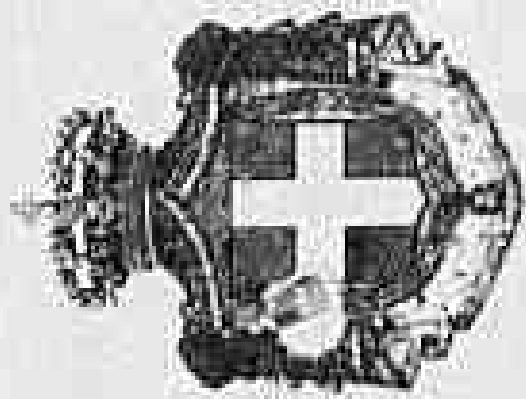
SUBJECT : Dott. VARI Valdo, Pretor of Todi.
TO : H. E. The Minister of Pardon and Justice.

1. Reference Pret. No. 1740/003324 of 15 Mar 1945.

2. It is regretted that this Sub-Commission is unable to supply further particulars in respect of the above judge. It would seem that an enquiry at the Ministry of Marine should elicit the desired information.

30
A. R. THACKERAN,
Lt. Col.,
Italian Branch,
For Chief Legal Advisor.

Mod. 1348 M.G.



4157

Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Uff. 3
Prot. n. 1740 / 00.3304
Risposta a nota del 28.2.1945
n. AC/4157/L. 10A

Roma, 16 marzo 1945

Alla Commissione Alleata
Sottocommissione Legale

R O M A

OGGETTO: Dott. VADI VALDO - pretore di Todi.

In relazione alla nota su indicata si prega di voler fornire a questo Ministero più precise notizie circa il richiamo in servizio nella Marina Italiana del magistrato in oggetto, e cioè la data del richiamo ed il reparto presso il quale il dott. VADI presta attualmente servizio.

PEL MINISTRO

A. Maccari

LEGAL SUB-COMMISSION

OGGETTO: Dott. VADI VALDO - precettore di ...

In relazione alla nota su indicata si prega di voler fornire a questo Ministero più precise notizie circa il richiamo in servizio nella Marina Italiana del magistrato in oggetto, e cioè la data del richiamo ed il reparto presso il quale il dott. VADI presta attualmente servizio.

PEL MINISTRO

A. M...

11

LEGAL SUBCOMMISSION
CLO
DCLO
Chief Counsel
CFO
Public Relations
CL-103
20 MAR 1945

Should be forwarded to the Department of Navy?

file

10A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ART/mt.
28 February 1945.

AC/4157/L

SUBJECT : Dott. VADI Valdo - Pretore di Todi.
TO : H.E. The Minister of Ration and Justice.

In further reply to Your Excellency's letter of 5 Feb 45 ref. Prot. No. 1740/00533 and to this Sub-Commission's letter ref. AC/4157/L dated 8 Feb 45, information has now been received that the above named magistrate has been called into the service of the Italian Navy and is now at Naples on a mission.

cy

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

0520

file

9A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/A-57/L.

28 February 1945.

SUBJECT : Allied Military Courts.
Island of ELBA.

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

1. I have read the report made by Major R. M. Hill on the 61 cases heard or pending before the Allied Military Courts in ELBA.
2. I agree with the recommendations made by Major Hill in each case.
3. So far as may be necessary, please treat this letter as my formal authority for the implementation of the action recommended by Major Hill.

By command of Rear Admiral STONE.

W. E. HARRIS

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

WEL/row.

8A

U.S.J.
HEADQUARTERS
GROSSETO PROVINCE
ALLIED MILITARY GOVERNMENT

PROVINCIAL LEGAL OFFICER
 File Ref. GR/LD/27-b. 21.FEB.1945.

SUBJECT : Doctor Vadi Valdo.
 TO : Regional Legal Officer - Toscana Region -

3A

1.- Reference is made to AC. letter dated 8th of February 1945 AC/4157/L.

2.- While on temporary duty at Elba, the writer found that Dr. Vadi Valdo has been called in to the service of the Italian Navy and is now at Naples on a mission. *le* Instructions were given that he should no more used in AMG. Courts work. The new P.O. of Elba, fully understand this.

3.- If he is to return to the post of Pretore of Gadi, it would seem necessary that the Ministry of Justice consult the Italian Navy Department.

Robert M. Hill
 ROBERT M. HILL
 Major, AUS.
 P.L.O. Grosseto

88H.
 for *Tupph* *IB*

4157

ALLIED MILITARY GOVERNMENT

CJO W Sec.

Island of Elba

18 February 45

7A

SUBJECT: AMG and Italian Courts at Elba

TO: Regional Legal Officer, Toscana Region

1. In compliance with Par. 2, S. O. 33, Toscana Region, 9th. Feb. 45, the undersigned proceeded to Elba on 13 Feb. 45 and today concluded the investigation directed by letter of Col. Behrens dated Feb. 1st (AC/4157/L) and report as follows.

2. Files have been assembled on a total of 61 cases handled in AMG courts from the occupation to the present time. A docket of these cases has been made in duplicate containing the name, date, charge, plea, finding, sentence and remarks on each case; one copy has been left with Major Riley, new P. O. at Elba. The other copy is forwarded to you herewith together with the file in each case, each of which contains a typed memo to the file which I have prepared giving the essential facts, the disposition, etc. and a recommendation for final handling.

3. The status of these 61 cases is:
- Acquitted..... 21
 - Convictions quashed by AC..... 3
 - Convictions wherein it is now recommended to RLO that the convictions be quashed..... 16
 - (Of this number the Judicial Officer undersigned has by special written order (copy attached to each file) released the prisoner from incarceration pending final review of the case by the RLO -the others of this group represent only fines or suspended sentences and await review and further order of the RLO)
 - Cases never tried or "dismissed"..... 10
 - (recommendation on each case included in file)
 - Forwarded to Procuratore del Regno, Livorno..... 6

Total..... 61

Three of the 6 cases forwarded to Proc. del Regno were cases of alleged murder by civilian against civilian. Cap't. Smith, former AMG officer at Elba "tried" these cases with an Allied Military Gov't Summary Court on which one Avv. Vadi, Valdo sat as collaborating Judge. A verdict of not guilty was rendered in each case. These cases had been withdrawn from the Italian courts for the purpose of the AMG trial. The Italian portion of the file has now been returned to the Procuratore del Regno, Livorno, together with explanatory letter (copy attached to what remains of the AMG file) that he should proceed to further investigation and prosecution as he in his discretion thinks proper. Another case of "attempted murder", and one for "mistreatment of his wife" have been handled in the same manner.

4. None of the 61 cases above were handled by the present AMG officer at Elba. Each was handled by Captain Smith. The following observations are made in answer to Para. 3 and 4 of AC letter above:

AMG - Elba

page 2

To: RLO

18/2/45

a) The AMG Summary Court in each case handled included as one of the judges one Avv. Vadi, Valdo, and also an Italian lawyer who served as prosecuting attorney and who in a majority of the cases signed the process, that is, the charge sheet or summons. Vadi did not sit as an assessor but as one of the Judges. (Vadi was former Pretore at Todi, near Perugia; he has since been called back into the service of the Italian Navy and has left Elba)

b) Much work was done by these Italian participants in recording the evidence in Italian on these trials and in many of the cases (nearly all of them) this transcript of evidence is included as a part of the AMG court file, but in only a very few of the cases was a summary of the evidence given as provided by the rules of AMG courts. There were other irregularities such as conflicting commitments, sentence without process (such as in the case of Pagni, Assunto, No. 15 wherein the defendant was sentenced without prior charge to six months imprisonment for giving false testimony in his behalf against the CCRR); temporary receipts were apparently given in court for fines paid because all three copies of FT-1 receipts found in the Elba office still remain in the receipt book. The officer was under the misapprehension that a person could be acquitted but yet taxed with a nominal fine, - as is indicated from a reading of at least two of the files. As a result of these irregularities (see separate files for each case) all cases are fatally defective and it is my recommendation that all convictions be quashed.

c) Cases were handed the Italian courts for trial and subsequently written orders for dismissal (and confiscation of the property) were given the Pretore by Cap't. Smith. Eleven such cases of the Pretore were seen by the investigating officer. It is not implied that such action was completely unjustified but it is here observed that this practise caused the Pretore and other Italian judicial officials to feel naturally that their cases were "not their own". Their feeling was that some of the defendants had gone to AMG, presented only their side of the case, had procured orders for dismissal and that Capt. Smith, though acting perfectly honestly, had not the knowledge at hand of the "prosecution's side" of the case.

d) The officer was under a mistaken belief as to the purpose, jurisdiction and procedures of AMG courts.

5. Several conferences have been held with the Pretore this week. Letter to him of even date, copy of which is attached hereto, is self explanatory of the instructions given him for the future. All Italian court cases were investigated and this letter explains the present status of all such cases on Elba at the present time.

6. Major Riley, new P. O. at Elba reports that the Pretore is of Fascist background and was strong pro-German in his background; however the Major states that he is reasonably efficient in his work and that there is no one suitable for a replacement. With sufficient supervision it is believed the present Pretore will serve acceptably.

AMG- Elba

page 3

To: RLO

18/2/45

7. Major Riley, new P. O. , Elba is in possession of a copy of "Consolidated Instructions for Allied Military Government Courts". He has some few court blanks and forms but is now in need of a new set which he now requests from the Provincial Legal Officer. It is requested that a copy of this report be forwarded to Major Woodward, PLO, Livorno, who has heretofore consulted Major Riley and supplied him some proper court forms and instruction.

8. A separate letter is being forwarded today with reference to the case of DAMIANI, Guisepe (Ref: AC/4091/L -29 Jan. 45)

Robert M. Hill
Robert M. Hill, Major AUS
Judicial Officer-Special Detail

ALLIED MILITARY GOVERNMENT
ISLE OF ELBA

18 February 45

SUBJECT: AMG. Trials and Italian Court Trials on Island of Elba. *Copy*

TO : Avv. Antinozzi, Pretore, Island of Elba.

1. Following up our several conferences this week with reference to AMG. and Italian Court cases which have heretofore been handled on Elba, we wish to give you these written instructions as to the manner in which court cases will be handled in the future:
 - a) Arrest Reports on all cases affecting Allied interests, in that is, offenses that could be tried as violations of AMG. proclamations and orders, will be submitted to Major Riley, new Provincial Officer for Elba, and he will make decision as to whether the case will be tried in AMG. court. Unless the case is a serious one, for example one involving possession of a great amount of Allied Property or one in which the facts indicate the defendant is regularly engaged in "black-market" operations, etc., Major Riley will hand the case back to you to be tried in your Italian courts as for the violation of Italian law. In case the offense is one that cannot properly be charged as for the violation of one of your Italian penal statutes, then, of course, Major Riley will handle the case in AMG court.
 - b) Arrest reports on all other cases, that is, purely Italian offenses which do not affect Allied interests are to be retained by you and tried in your courts with all speed possible. You must continue to make regular reports in writing each two weeks to Major Riley on all cases you try giving the name of defendant, date of trial, plea, finding, and amount of sentence.
 - c) AMG. does not, and will not attempt to dictate to you as to who should and who should not be found guilty or not guilty; however, we wish to direct you to give reasonably adequate punishment in those cases found Guilty. The punishment imposed should be sufficient to serve as a deterrent to others,. Punishment by fine alone has practically no deterrent value. Convicted black-marketeers, for example, should always receive a prison sentence - and not merely a fine.
 - d) We realize that before Jan. 1, 45 you were given written orders by the former AMG. officer at Elba as to the disposition you should make of quite a few cases being tried in your court. There will be no such orders in the future. AMG. now expects you to handle cases in your court with fairness and firmness and strict impartiality and as long as this is done there will be no interference from AMG.
 - e) Only qualified AMG. officers will sit as members of AMG. courts in the future. ¹² Neither you or Avv. Vadi Valdo, or any other Italian lawyer or official or person, will sit on AMG courts in the future. As you have been advised this week, a total of seven prisoners serving sentences have been released from your prison because of convictions before improperly constituted AMG. Courts.

AMG - Elba

Page 2

To: Pretore

18/2/45

f) We commend you for keeping your dockets cleared. The eleven cases you have tried this week, according to our understanding brings your docket up to date and there are no cases for the Pretore untried. After going over the list of prisoners at Elba this week we should like you to confirm the following before this officer undersigned leaves the Island) we find:

Now in jail	45	-----
Serving sentences already imposed (Excluding those 7 released by AMG this week)	7	
In jail awaiting trial before Tribunale	31	
" " Court of Assizes	2	
" " Military Tribunal	3	
Juvenile offenders (you're holding for Questore, Pisa) (None being held for Pretura or AMG courts)	2	

Total.....	45	

g) A docket has now been made of all cases handled in AMG courts with the final disposition of each. In case you wish information on any of these in order to clarify your records you may see this docket at any time by requesting permission of Major Riley.

h) It is our understanding that there are four additional criminal cases (defendants not in jail) awaiting trial by the Tribunal from Livorno, two of which you have not yet been able to forward to the Procuratore del Regno. Please do this as soon as possible.

Robert M. Hill
Robert M. Hill, Major AUS
Judicial Officer-Special Detail



GOVERNO MILITARE ALLEATO
Isola dell' Elba

18 febbraio 1945

SOGGETTO : Cause di competenza dell'AMG. e della Corte Italiana sull'Isola d'Elba.

AL : Avv. Antozzi, Pretore, Isola d'Elba.

Copi

1.- Facendo seguito alle nostre conversazioni di questa settimana, in merito alle cause di competenza dell'AMG. e della Corte Italiana, che sono fino ad oggi state trattate sull'Isola d'Elba, noi desideriamo darvi queste istruzioni scritte, sul modo come desideriamo che in futuro, queste cause vengano trattate.

a) I rapporti di arresto, per tutte le cause involgenti interessi Alleati, cioè per reati che potrebbero essere giudicati come violazioni ai proclami ed ordini della AMG., devono essere sottoposti al Maggiore Riley, Ufficiale Provinciale per l'Isola d'Elba il quale deciderà se la causa debba essere giudicata da una Corte dell'AMG. A meno che la causa non sia molto seria, ad esempio una involvente un grande ammontare di proprietà Alleata, od una nella quale i fatti chiaramente dimostrano, che l'arresto era coinvolto in mercato nero, etc., il maggiore Riley, ve la restituirà perché la giudichiate in una corte Italiana, come violazione ad una legge Italiana. In casi in cui il reato non è previsto dal vostro codice Italiano Penale, allora, naturalmente, il maggiore Riley, porterà la causa innanzi ad una Corte dell'AMG.

b) I rapporti di Arresto, in tutte le altre cause, cioè, in puri reati italiani, dove non sono involti interessi alleati, devono essere trattenuti da voi e giudicati nelle vostre corti, nel più breve tempo possibile. Voi dovete continuare a fare i vostri regolari rapporti scritti, al maggiore Riley, ogni due settimane su tutte le cause da voi giudicate, dando il nome dell'imputato, la data del giudizio, se si è dichiarata colpevole o non, se è stato trovato colpevole o non, la sentenza.

c) L'AMG. non deve e non tenterà di dettare a voi come dovrebbe e chi dovrebbe essere trovato colpevole. Comunque noi vogliamo che voi diate adeguate punizioni, a chi sarà trovato colpevole. La punizione imposta dovrebbe essere tale da servire come esempio agli altri. Una punizione consistente soltanto in una multa ha dimostrato, di non avere esempio deterrente su gli altri. Persone condannate per mercato-nero dovrebbero per esempio, ricevere sempre un termine di detenzione, e non una semplice multa.

d) Noi realizziamo che prima del 1 gennaio 1945, voi avete avuto dall'allora Ufficiale in carica per l'AMG. sull'Isola, ordini scritti sul come disporre alcune cause, portate innanzi alla vostra corte. Nel futuro non ci saranno di simili ordini. L'AMG. aspetta che voi trattiate le vostre cause nella vostra corte, con giustizia, fermezza ed assoluta imparzialità e finché ciò sarà fatto, nessuna interferenza da parte dell'AMG, ci sarà.

e) Soltanto qualificati ufficiali sederanno come membri di corti dell'AMG. in futuro. Ne voi, né l'Avv. Vado Vadi, né nessuna altro Avvocato od ufficialità o persona potrà sedere in una corte dell'AMG. Come voi già siete stato avvisato, un numero di sette detenuti, che scontavano la loro sentenza, è stato rilasciato dalla vostra prigione, perché condannati da una corte dell'AMG. impropriamente costituita.

AMG. - Elba

Page: 2

To: P. oro

18/2/45

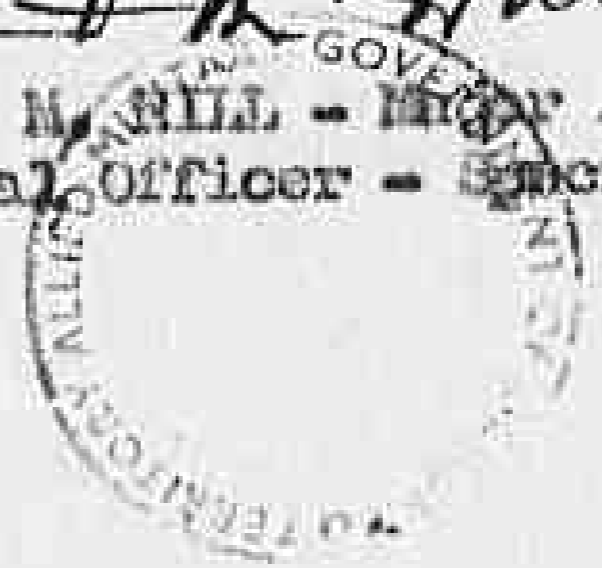
f) Noi complimentiamo con voi per tenere i vostri ruoli aggiornati. Le undici cause che voi avete giudicato questa settimana, a quanto noi abbiamo capito, aggiornano il vostro ruolo in modo che non rimangono per il Pretore cause pendenti da giudicare. Dopo aver letto la lista dei detenuti all'Elba questa settimana, (e noi desideriamo che voi confermiatelo prima che quest'Ufficiale lasci l'Isola) abbiamo trovato:

Ora in carcere	45	
Scontanti la sentenza già imposta		7
(Esclusi i 7 rilasciati dall'AMG. questa settimana)		
Incarcerati aspettanti giudizio dal Tribunale		31
" " " " " Militare		3
" " " " " Corte di Assise		2
Minorenni (a disposizione del Questore di Pisa)		2
Nessuno a disposizione della Pretura o dell'AMG.		
Totale		45

g) Un ruolo e' ora stato fatto per tutte quelle cause che sono state trattate in Corti dell'AMG. con la finale decisione in essa presa. Nel caso che voi abbiate bisogno di dette informazioni, in modo da chiarificare i vostri registri, voi potrete consultarlo in ogni momento, richiedendo il permesso al Maggiore Riley.

h) E' a nostra conoscenza, che ci sono quattro addizionali cause, penali (i cui imputati non sono in carcere) a disposizione del Tribunale di Livorno, i fascicoli di due delle quali, non sono ancora stati inviati al Procuratore del Regno. Per favore fate questo al piu' presto possibile.

Robert M. Hill
ROBERT M. HILL - Major AMB.,
Judicial Officer - Special Detail.



HEADQUARTERS REGION VIII
MILITARY GOVERNMENT

GA

File Ref. *R VIII/9/5003.*

~~4175~~
4157

Date: 12 February 1945.

SUBJECT: Dott. VADI, Valdo.
TO : Legal Sub-Commission, Headquarters, AC.

1. See your letter, above subject, 8 February 1945, AC/4157/L.

2. The contents of the letter have been communicated to Major Hill just prior to his departure to Elba, and you will be advised further thereon in connection with the Elba cases.

For the Regional Commissioner:

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

HEADQUARTERS
14 FEB 1945

REG. SUB. COMMISSION	
CLO	
DELO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
14 FEB 1945	

0530

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

(SA)

Date: 8 February 1945.

4157
R VIII/19/3004

File Re

SUBJECT: Allied Military Courts, Elba.
TO : Legal Sub-Commission, Headquarters, AC. ✓

1. See your letter, above topic, dated 1 February 1945,
AC/4157/L. */A*

2. Major Robert M. Hill, Provincial Legal Officer, Grosseto Province attended a conference at Livorno on yesterday, presided over by the Regional Legal Officer, wherein the situation as reflected in the above mentioned letter was fully examined. With the approval of the Regional Commissioner, Major Hill has been directed to proceed to Elba and to act in accordance with instructions there given to him. Upon completion of the task, a report will be rendered for transmission to all concerned. The above mentioned letter and the accompanying file were turned over to Major Hill, but are to be returned to this office after his return from Elba.

3. An officer named Major Reilly has been on Elba since it was turned over to this Region in December. This officer has functioned as a Court in this Region, and from our past experiences, it is our opinion that he is very well informed on legal administration. Thus far, no record has been received by this office from Elba since it was turned over to this Region. We do know, however, that Major Reilly took pains to discuss his functions as a Court with the Provincial Legal Officer, Livorno, just prior to going to Elba, and took with him necessary forms, Consolidated Instructions, etc.

4. The report of Major Hill will be forwarded to you when completed.

	CLC	
→	CCO	
	Chief Counsel	
→	CJO	
	Region	
	RRS	

For the Regional Commissioner:

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

File

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

4A

AC/4157/L.

ICHC/ep.
8 February 1945.

SUBJECT : Dott. VADI Valdo - Pretore of Todi.

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

1. In reply to Your Excellency's letter Prot. No. 1740/00533 of 5 Feb 45, I have to express regret that Dott. VADI Valdo, Pretore of Todi should have been used to sit on an Allied Military Court and kept from his proper station.

2. The employment of the Dottore in this manner was due to the local initiative of an officer of the Allied Military Government who was not familiar with legal matters and was without the knowledge of this Sub-Commission.

3. Please be assured that he will not be so employed in the future and that he is free to return to his proper duties immediately: and orders to this effect are being issued today.

lc

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

Copy to : AC/0019/L.

3A

file
0
AC/4157/L.

HEADQUARTERS ALLIED COMMISSION
AFM 394
LEGAL SUB-COMMISSION

IGHC /ep.
8 February 1945.

SUBJECT : Dott. VADI Valdo.

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

Reference paralg of AC/4157/L of 1 Feb 45 concerning the Allied Military Court in ELBA.

1. The Ministry of Justice has protested at the retention of Dott. VADI Valdo, the retor of T DI, at PORTOFONZONE. He is urgently required at his proper station to carry out his normal duties.

2. It appears that he has been kept away from his duties for the express purpose of sitting (most irregularly, of course) on Allied Military Courts.

3. Please ensure that he is permitted to return to his proper station im ediatly and that he is afforded all possible help.

By command of Rear Admiral STONE:

lc
R. E. BERENS, C. I. nel,
Deputy Chief Legal Advisor.

Copy to : 20/4839/L.

Mod. 1348-MG

4157
Ministero di Grazia e Giustizia



2A

UFFICIO SUPERIORE DEL PERSONALE

Uff. 3

1740/00833

Roma, 5 febbraio 1943

Alla Commissione Alleata
Sottocommissione Legale

R O M A

OGGETTO: dott. VADI Valdo - pretore di Todi.

Risulta a questo Ministero che il dottor VADI Valdo pretore di Todi, attualmente a Portolongone (Elba), è stato chiamato da parte dell'A.M.G. a far parte della "SUMMARY MILITARY COURT" dell'isola d'Elba.

Poichè è necessario ed urgente che il suddetto pretore riprenda le sue funzioni nella pretura di cui è titolare, dato che, per la scarsenza dei magistrati, ben nota anche a codesta Commissione, non è possibile sostituirlo, si prega di voler disporre che il dott. Vadi Valdo sia esonerato dall'incarico ricevuto dall'A.M.G. perchè possa, al più presto, rientrare nella sua sede.

PEL MINISTRO

MINISTRO SUPERIORE DEL PERSONALE

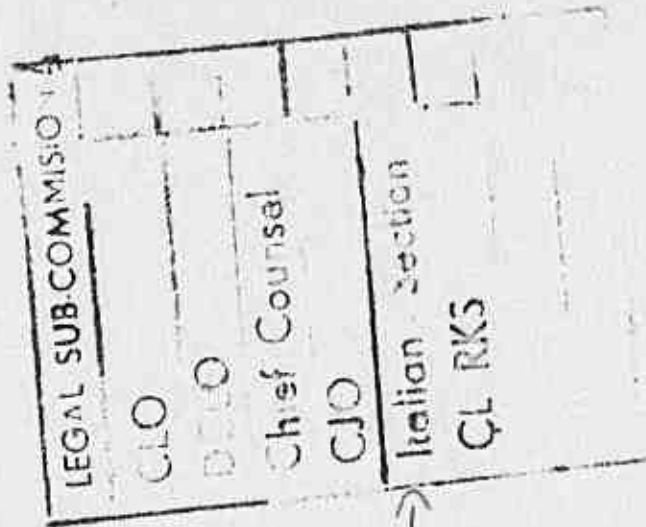
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PEL MINISTRO

Maurice



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*Request
any correspondence on the matter
sent copy to AC/1439/6*

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

(1A)

AC/457/L.

ICHC/ps.
1st Feb 45.

SUBJECT : Allied Military Courts - ELBA .
TO : Regional Commissioner, POSCANA Region.
(Attn: Regional Legal Officer).

1. The enclosed records of trials in Allied Military Courts in ELBA have come into the possession of this Sub-Commission and are forwarded to you for retention. They disclose that in the period they cover a most serious situation existed in that island : for examples :-

- a) BANDI Giuseppe : A Summary Court on 21 Nov 44 found the accused guilty of an offence under Proc. No. 1 (30) and sentenced him to 6 months imprisonment. The papers in question contain nothing detrimental or disrespectful to the Allied Forces or any member thereof, to the Government of any of the United Nations or to the Allied Military Government.
He was also tried (but acquitted) on two other charges of which one was "Defamation of Character" tried under Pr. c. 1 Art. VII as a violation of the Italian Penal Code, Arts. 290 and 590.
The "procedure" adopted at the trial was remarkable. Apparently no small detail such as calling any prosecution evidence troubled the Court: the accused was asked by the prosecutor whether or not he admitted his guilt : on his reply in the negative, the prosecutor proceeded to interrogate the accused.
This case has not previously been reviewed. The conviction under the first charge has now been quashed: please arrange for the immediate release of BANDI.
- b) BANDI Pietro : tried by Summary Court on 23 Nov 44.
This ranks high amongst judicial decisions. The charge was "wrongful possession". The Court states "He (the accused) was able to account for all of it (the subject matter of the charge) and the French Commandant returned the foodstuffs to him". Having made that statement, the Court proceeded to find the accused "guilty" and sentence him to a fine. His conviction has also been quashed.
- c) AMNINIA Santi : was charged under Penal Code Art. 336 : he was acquitted after having been in prison for 54 days.
- d) PAMIZI Giuseppe . After being in prison for almost 2 months he was tried by Summary Court on 9 Dec 44 for "furto aggravato". The typescript of the proceedings shows that he was sentenced to imprisonment for one year, suspended for one year. The record (on back of form 2) shows the sentence as three months with no mention of suspension. The judge's note refers to the accused being given a suspended sentence. Will you please ascertain what sentence (if any) he is serving?

- e) ALESSI Guerino : On 23 Nov this man was tried for infringing Proc 2 Art. X which requires sellers of food to mark the goods with the sale price. According to the judge's note, the accused had a very arguable line of defence namely that he was in the course of arranging his merchandise: the judge observed, however, that "as he pleaded guilty, he was let off with a minimum fine". This conviction has now been quashed.
- f) BERONINI Giuseppe : was tried by Summary Court in Nov 44 under Proc. 1 Art. IV (5) for having in his possession 3 rifles, 14 kilograms of gun-powder, 45 detonators and other things. He was convicted and sentenced to 1 month's imprisonment suspended.
The trial appears to have followed no known procedure. The accused pleaded Not Guilty and the president then asked the accused how long he had had the arms. A defence witness was then called who, in reply to questions by the Court, gave evidence that the guns were found by the accused's children on or about 10th or 11th (month not specified): the Court then asked "Is it true that the father noticed it and took away the guns to take them to report them?": this question, not very surprisingly, got the answer "yes". At no time was the witness asked his means of knowledge. In the defence, the lawyer asked his client "Is it true that the children found the guns": again the answer was "yes".
- g) GALLI Assunto : was tried and acquitted on 25 Nov 44 for "Attempted murder", if not being specified if such charge was under the Proclamation or under Italian law.
The trial was before a Summary Court composed of
"Capt. R.E. SMITH
Maj. Van KIRK (qualified Regal Officer)
Avv. VAISI VISA (qualified Italian Judicial Officer)"
Obviously such a Court was not properly constituted, an Italian avvocato not being authorized to sit on an Allied Military Court: ~~nor should such a charge be tried before a Summary Court.~~
- h) BOSSI Pietro and BOSSINI Francesco.: were tried and acquitted on 1 Dec 44 by the same "Summary Court". The first accused was charged under Proc. 1, Part II, Art. 4 with being "suspected of throwing a hand grenade apparently intended for Marshal of R.C. that was not pro-patriot if not actively pro-German".
The second accused was charged with being "suspected of knowing something about the hand grenade being thrown".
- i) BONCI Enzo : was tried on 5 Dec 44 by the same "Summary Court". The charge was: "killing his wife who was pregnant and would have been confined in about 10 days". The accused was "acquitted for lack of evidence".
2. This Sub-Commission is very disturbed to find out that such things were going on in Nov and early Dec 44. While it is appreciated that MIRA did not come under TOBIANA Region officially until 20 Dec 44, this Sub-Commission was under

the impression that your HQ was in fact supervising the legal administration for some time previously: this impression was based partly on remarks made verbally to CJO when he visited TOSCAN Region in the month of October and partly on your monthly report for Sept forwarding part of the report of PLO Livorno who had been there and settled certain charges in cases to come before Allied Military Courts.

3. The officer responsible for holding these Courts was Major (then Capt.) SMITH. He was there both before and after 20 Dec, but it is thought that he has now left.

Have the records of cases tried by him since 20 Dec been reviewed by you? If so, were they as unsatisfactory as the ones now forwarded?

4. The position as regards Allied Military Courts in ELRA is so unsatisfactory that you are instructed to send out there immediately an officer of field grade with experience of Allied Military Courts. He should be instructed:

- (a) to investigate generally and report upon the Allied Military Courts held there both before and after 20 Dec 44 and particularly to discover whether there are any other unreviewed cases; and
- (b) to ensure that whoever will be holding Court there in future is aware of at least the most elementary points in regard to the composition of Courts and the procedure to be adopted at trial.

A copy of the report will, please, be sent to this HQ.

By command of Rear Admiral STONE :

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

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