

ACC

10000/142/943

PETITIONS TO R
MILITARY COUR
NOV. 1943 - JAN

ACC

10000/142/943

PETITIONS TO R
MILITARY COUR
NOV. 1943 - JAN

10000/142/943

PETITIONS TO REVIEW & RECORD OF SUMMARY ALLIED
MILITARY COURT CASES, FORMS 8
NOV. 1943 - JAN. 1944

AMG/208

Petitions to
REVIEW AND

RECORD OF SUMMARY

ARMED MILITARY

COURT CASES

FORMS 8.

120

Case 20

RECORD of SUMMARY

ALLIED MILITARY

COURT CASES.

FORMS 8.

120

10000 342 / 943

THIS FOLDER	
CONTAINS PAPERS	
FROM	NOV 43
TO	Jan 44
CATALOGUE-	

NOTE

The following files have been removed and are filed as indicated:

Folio No.	File No.
1	208D
2A	208C
4	208B
17-23	208D
25	208D
26A	208D
27-31	208D
34-38	208D
42-51	208B
53-55	208B
58-66	208B
68	208B
71-72	208B
74-76	208B
79	208D
82	208D
85-87	208B
91-93	208B
95	208B

Folio No.	File No.
97-103	208D
107-109	208B
112	208B
114A,B,D+E	208B
121	208B
122-132	208B
139	208B
144-149	208D
153	208D
154-156	208B
159-161	208B
163	208B
169-191	208A

1:0

FOLIO	DATE	REF.	TO/FROM
1	2 11 43.	FROM 3.	FROM : S.L.O. 2 RONY.
2	6 11 43.	Angu/3/1001/1.	FROM : S.L.O. 5 RONY.
2a	6 11 43.	FROM ?	FROM :
3	11 11 43.	AMG/200/3.	TO : S.L.O. 5 RONY.

Subject:-

Application for Review, ROSSI Attilio
and CALITTO Vittorio.

233

AG,
HQ, A.C.M.F.

AG/203/233
27 January 44.

Rear AG HQ Eighth Army.

The subject applications have been received. The only record of proceedings received is the loose leaf Summary Court Record which is insufficient for a Review. Please obtain a record on Form 8 from the trial judge and forward it to this Headquarters.

2. The accused were tried by Captain Shirley R. Marsh at Campobasso on the 27th of December, and sentenced to two and five months imprisonment respectively.

3. A Form 8 is necessary in every case where an application for Review is submitted and should be forwarded with the application if it has not already been forwarded.

head Hnd

Major, A.U.S.,
Chief Legal Officer.

118

Subject: Review of Allied Military Court Cases.

AMC
Hq. A.C.H.F.

AMC/208/100
27 Jan 44

Hear AMC Bq Eighth Army.

The D.C.C.A.O. has reviewed the proceedings of the Summary Court at Montedorisio where Grazia Orsano, Siccantino Damoro and Di Nino Antonio were convicted of violation of Section 45, Article II of Proclamation No. 2 and has set aside the findings and sentence.

2. Please inform the accused and the prison authorities of this action.

3. Such section should not be interpreted to include prostitution and "pimping". These subjects should be dealt with under Italian law if there is a violation of such law, or be made the subject of a special order, if it is deemed necessary. Prosecutions for violation of such order would then be brought under Section 14, Article II of Proclamation No. 2.

Luigi Hurd

Major, A.U.S.,
Chief Legal Officer.

117

MEMO.

D.C.C.A.C.18 Jan 44.Case of GRAZIA, SIRONI and DI NINNO.

dy? The attached case is submitted to you for Review in accordance with Section 3 of Article 7 of Proclamation No. 4. No application for Review has been received. The informality of the record is due to the fact that when the case was heard no proper forms had reached the Court. That situation has been corrected.

2. The Court held that the defendants, two diseased prostitutes, with whom soldiers had had intercourse, and a "pimp" had violated Sec. 45 of Art. II of Proclamation 4, doing "an act to the prejudice of good order or the safety or security of the Allied Forces or any member thereof".

3. It is unwise, I believe, to extend the scope of Sec. 45 to include prostitution and solicitation. The problem of prostitution was well known when the Proclamations were drafted, and had it been intended to make the practice a Proclamation offence a specific provision would have been adopted.

Ward HWR

Major, A.U.S.,
Chief Legal Officer.

116

C.H.O.

Please speak after discussing with J.P.H.

We spoke. I agree.

Mr. [unclear]

Mr. [unclear]

1st Indorsement

To: S.L.O., A.M.T. 8th Army.

1. Forwarded.

Imkeford Major
S.L.O. Chief Prisoner

2nd Ind.

To: C.L.O., 8th Army Group

1. Forwarded.

Case No. 72

4 January 1944.

Edward J. Mercer

EDWIN J. MERCER, Maj. Ord.

SENIOR LEGAL OFFICER 8th ARMY

SUBJECT: Summary Military Court Record
Comune di Montecitorio.

TO : Chief Legal Officer, AMG HQ., Vasto.

FROM : C A O, Comune di Montecitorio.

On January 4th, one man and two women of this comune were placed on trial before a Summary Military Court. It was alleged that during the months of December 1943 and January 1944 they had practiced prostitution in the comune and thereby caused the spread of venereal disease among the troops stationed here.

A Medical Officer attached to the Military Hospital in Montecitorio complained that a number of venereal cases had reported to the hospital for treatment and pointed out the place where some of the men had been going for sexual intercourse. During the evening the place was raided by Civil Police and Carabinieri who arrested two prostitutes, Grazia Orbano and Siconfino Damoro, and a pimp, Antonio Di Minno, who was living with Grazia Orbano though not married to her.

At the trial, two of the soldiers who were undergoing treatment at the hospital, testified that they had contracted the infection after having had sexual intercourse with Siconfino Damoro and Grazia Orbano, for which they paid half a crown, and that they were picked up in the village square by Antonio Di Minno and taken by him to the house of prostitution where he was living with Grazia Orbano.

Each of the defendants was charged with violating Sect. 45, Article II, Proclamation No. 2. They were tried and convicted and each of them was sentenced to serve 180 days imprisonment and pay a fine of 5,000 Lire. Commitments were made out and the prisoners are now serving time at Vasto, having been sent there on the afternoon of their conviction.

2320

EDWIN J. MERCER, Major, Ord.
SENIOR SERGEANT, U.S. ARMY

SUBJECT: Summary Military Court Record
Comune di Montedorisio.
TO : Chief Legal Officer, AMG HQ., Vasto.
FROM : C A O. Comune di Montedorisio.

On January 4th, one man and two women of this comune were placed on trial before a Summary Military Court. It was alleged that during the months of December 1943 and January 1944 they had practiced prostitution in the comune and thereby caused the spread of venereal disease among the troops stationed here.

A Medical Officer attached to the military hospital in Montedorisio complained that a number of venereal cases had reported to the hospital for treatment and pointed out the place where some of the men had been going for sexual intercourse. During the evening the place was raided by Civil Police and Carabinieri who arrested two prostitutes, Grazia Orbano and Siconline Demore, and a pimp, Antonio Di Minno, who was living with Grazia Orbano though not married to her.

At the trial, two of the soldiers who were undergoing treatment at the hospital, testified that they had contracted the infection after having had sexual intercourse with Siconline Demore and Grazia Orbano, for which they paid half a crown, and that they were picked up in the village square by Antonio Di Minno and taken by him to the house of prostitution where he was living with Grazia Orbano.

Each of the defendants was charged with violating Sect. 45, Article II, Proclamation No. 2. They were tried and convicted and each of them was sentenced to serve 180 days imprisonment and pay a fine of 5,000 Lire. Commitments were made out and the prisoners are now serving time at Vasto, having been sent there on the afternoon of their conviction.

If further reports are required on this case, please advise, and they will be forwarded to you at once.

Thos. Caulhorn
Thos. Caulhorn, Capt. CMR.
Civil Affairs Officer
Montedorisio.

232 C

Subject: Evacuated prostitutes under sentence CH (Legal) 45.
 To: A.M.G. 15th Army Group
 Thru: AMG 8th Army. 20 JAN 1944

D'AMORO Secondina
 ORBANO Grazia to Bari CCR

The above 2 prostitutes suffering from V.D. were evacuated from Vasto on 14th inst. by order of the C.A.P.O. with others. The a/m were serving a sentence of imprisonment at the time, but the committal order in possession of the local gart was defective. I have been in touch with the local Judge & enclose 2 "mandati di cattura" which give effect to the sentences pronounced, together with a letter to the CCR. May these please be passed to the prison where the a/m women are confined whilst undergoing treatment at the Bari hospital?

Vasto
 17 Jan 1944

G. M. Beloford

Major

Senior Legal Officer, Chieti

1st Endorsement.

AMG. H.Q. 15 Army Group

114

Forwarded.

Ed. L. Major

for Group Captain,
 AMG. H.Q. EIGHTH Officer Commanding,
 ARMY.

FORM N. 6

GOVERNO MILITARE ALLEATO

MANDATO DI CATTURA

All'Ufficiale in Capo

della (Prigione) (Carcere) (Campo) di Vasto o qualsiasi altra prigione, carcere o campo al quale il detenuto può essere, d'ora in avanti, legittimamente trasferito.

Poichè il DARMORO Secondaria è stato condannato pel reato di avere sparso
(nome e cognome)

malattie veneree ai soldati Inglesi

ed è stata pronunciata sentenza del Tribunale Militare Alleato di Montedisonio

e deve scontare la pena di 180 giorni di reclusione e pagare una multa di Lire 5000.

La detta sentenza ha decorrenza da 14 Gennaio 1944. In caso di mancato pagamento deve scontare la pena in prigione a ragione di un giorno per ogni Lire 50, cioè 180 giorni per le Lire 5000. 91 della reclusione avrà decorrenza dal 2 luglio 1944.

Pertanto, voi siete autorizzato a prendere il detto condannato in vostra custodia e detenerlo

conformemente alla sentenza così pronunciata o fino ad ulteriori disposizioni di questa Corte o di

una competente autorità militare e per procedere in tal senso, questo sarà sufficiente mandato. 3

Il detto condannato sarà liberato, qualora non sia detenuto per altra causa, quando sarà soddisfatta la suddetta sentenza.

194

Firmato questo 17 giorno di Gennaio 1944,

G. M. Lelsford Major. A.M.B.
 L'Ufficiale presidente

TRIBUNALE MILITARE ALLEATO

(La multa inflitta deve essere pagata o il convenuto riceverà un credito di Lire 50
 al giorno per ogni giorno di reclusione).

FORM No. 1

ALLIED MILITARY GOVERNMENT

COMMITMENT.

TO: - The Officer in Charge

of _____ (Prison) (Jail) (Camp) or any other prison, jail, or camp to which the prisoner may be hereafter lawfully transferred

Whereas one _____ has been convicted of the offence of _____
(Name and Address)

and has been sentenced by the _____
(Name of Court)

to serve a sentence of _____ and to pay a fine of _____ lire; the said sentence to commence on _____
(Date)

Now, therefore, you are hereby authorised to receive the said _____
(Name of Accused)

into your custody and detain him in accordance with the sentence so imposed or until further order of this Court or a competent military authority and for so doing this shall be sufficient warrant.

Signed this _____ day of _____ 194 _____

 Presiding Officer

 Court

(The fine imposed must either be paid, or the defendant will receive a credit of _____ lire per day for each day served in confinement).

232 E

FORM N. 6

GOVERNO MILITARE ALLEATO MANDATO DI CATTURA

All'Ufficiale in Capo

della (Prigione) (Carcere) (Campo) di Vasto o qualsiasi altra prigione,
carcere o campo al quale il detenuto può essere, d'ora in avanti, legittimamente trasferito.

Poichè il ORBANO Grazia (nome e cognome) è stato condannato pel reato di avere sparsa

malattie veneree ai soldati Inglesi

ed è stata pronunciata sentenza del Tribunale Militare Alleato di Monza d'Adda

e deve scontare la pena di 180 giorni di reclusione e pagare una multa di Lire 5000.

La detta sentenza ha decorrenza da 4 Gennaio 1944. In caso di mancato pagamento deve scontare la pena in prigione a ragione di un giorno per ogni Lire 50, cioè 100 giorni per Lire 5000. 71
detta reclusione avrà decorrenza dal 2 luglio 1944

Pertanto, voi siete autorizzato a prendere il detto condannato in vostra custodia e detenerlo
conformemente alla sentenza così pronunciata o fino ad ulteriori disposizioni di questa Corte o di
una competente autorità militare e per procedere in tal senso, questo sarà sufficiente mandato.

Il detto condannato sarà liberato, qualora non sia detenuto per altra causa, 11⁷ quando sarà
soddisfatta la suddetta sentenza.

194

Firmato questo 17 giorno di Gennaio 1944

G. M. Welsford Maggiore Am. G.
L'Ufficiale presidente

TRIBUNALE MILITARE ALLEATO

(La multa inflitta deve essere pagata o il convenuto riceverà un credito di Lire 50
al giorno per ogni giorno di reclusione:).

2828
ALL'UFFICIALE Comandante i Carabinieri Reali

B a r i

I Mandati di Cattura, qui incollati, Vi sono trasmessi in sostituzione di quelli trasmessi insieme ai sotto nominati prigionieri che Vi furono consegnati il 14 Gennaio u.s., e che, affetti di malattia venerea, devono essere curati nell'ospedale, mentre espiano la pena loro inflitta.

La multa non è stata pagata, e se essa non sarà pagata, i condannati avranno da espiare altri 100 giorni di reclusione.

Vi prego di distruggere i Mandati di Cattura precedentemente trasmessi.

I nomi dei detenuti sono i seguenti:

ORRANO Grazia

DANONO Secondina

Vasto, il 17 Gennaio 1944.

G. M. Luford

111

Translation

To: the Officer Commanding the Carabinieri Reali

B a r i

Enclosures' Commitments.

The enclosed arrest forms are sent to you in substitution of those handed over to you together with the hereunder-mentioned prisoners who were sent to you on the 14th of January, and who, being affected by venereal disease, are to be cured in the hospital, while they serve their sentences.

The Fines have not been paid, and if they will not be paid, the prisoners must serve other 100 days of imprisonment.

nicri che Vi furono consegnati il 14 Gennaio u.s.c., e che, affetti di malattia venerea, devono essere curati nell'ospedale, mentre espiano la pena loro inflitta.

La multa non è stata pagata, e ne essa non sarà pagata,

i condannati avranno da versare altri 100 giorni di reclusione.

Vi prego di distruggere i mandati di cattura precedentemente trasmessi.

I nomi dei detenuti sono i seguenti:

ORBANO Grazia

DAMICO Secondina

G. M. L. L. L.

Vasto, il 17 Gennaio 1944.

111

Translation

To: the Officer Commanding the Carabinieri Reali

Bari

enclosed commitments.

The enclosed Arrest Forms are sent to you in substitution of those handed over

to you together with the hereunder-mentioned prisoners who were sent to you on the

14th of January, and who, being affected by venereal disease, are to be cured in the hospital, while they serve their sentences.

The Fines have not been paid, and if they will not be paid, the prisoners must serve other 100 days of imprisonment.

Please destroy the Arrest Forms previously sent to you.

The names of the prisoners are as follows:

ORBANO Grazia

DAMICO Secondina

Vasto, 17/1/44

ALLIED MILITARY GOVERNMENT
SUMMARY MILITARY COURT RECORD.
COMUNE DI SORREDOCHISIO.

15 JANUARY 1944

Name and address of accused:	Offense Charged:	Arresting Officer:	Date of Trial:	Place of Trial:
165- No.1 Antonio Di Minno, Monteodorisio	Vio. Sect.45, Article II, Proclamation 2.	Vice Brigadiere, Mareglia Riccardo, and Carabiniere, Eutino Vincenzo.	4 January 1944	Monteodorisio
166- No.2 Sicontino Damoro, Monteodorisio.	" "	" "	" "	" "
167- No.3 Grazia Orzano, Monteodorisio.	" "	" "	" "	" "

(No.1 continued)	Plea:	Witnesses:	Sentence	Fine:	Imprisonment:	Fine Paid:	Judge:
(No.1 continued)	Not Guilty	Dvr. Brown & " Melby	Finding: Guilty	Lira 5,000.	180 days	Fine unpaid	Theo. Cawthorn Capt. CMF, GAO.
(No.2 continued)	"	"	"	"	"	"	"
(No.3 continued)	"	"	"	"	"	"	"

26 JAN 1944

208

231

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

SOB/pv
3/6059/L

24 January 1944

Subject: Record of Superior Military Court
held at Naples, 1 Jan. 44, in case
of Elefante Pasquale.

To : Chief Civil Affairs Officer, A.M.G.
Headquarters, A.C.M.F.

1. In the above case, a Superior
Military Court sentenced the accused to
imprisonment for a period of three (3) years.

2. As the sentence is one which
must be reviewed by the C.C.A.O., or an of-
ficer designated by him, (Sec. 3, Art. VII, 110
Proc. 4, as amended) the record of the case is
forwarded.

For the Regional Civil Affairs Officer:

Douglas N. Batson
DOUGLAS N. BATSON,
1st Lt., C.M.F.,
Actg Asst Adj Gen.

2 JAN 1944

Ref. CF/Legal/18.

19th. Jan. 1944.

SUBJECT: Allied Military Courts.

TO: Senior Legal Officer, A.M.G. H.Q. 8th. Army Main,

FROM: Legal Officer CAMPOBASSO PROVINCE.

Enclosed are copies of Summary Military Courts held in CAMPOBASSO for period to date. Also enclosed are copies of reports ~~mixte reports~~ from respective C.A.O.s attached this Province to date.

Shirley R. Marsh Captain.
Legal Officer.
CAMPOBASSO PROVINCE.

1st Ind.

To: C.O.D. A.M.G. H.Q. 15 Army Group.

1. Forwarded.

Edward J. Mace

SUBJECT: Summary Military Court CasesA.M.C.,
H.Q. A.C.H.F.S.L.C.,
A.M.C. H.Q. EIGHTH ARMYOAG/206/229
26 Jan 44

1. The D.C.C.A.O. has reviewed the following cases and taken the action indicated:

GIAMBERLA MARIA CASTANO - ROCCAMARELLI Summary Court Reference No. 1 - 7 before W.A. LEMMA, 2nd Lt.

Finding on first charge confirmed, finding on second charge set aside. Sentence reduced to one week's imprisonment.

DE MATTEI GIUSEPPE - CANTALUPO DEL SANTO Summary Court Reference No. 1 - 1 before W.A. LEMMA, 2nd Lt.

Finding and sentence set aside.

2. The decisions were based on the fact that in both cases the charge was refusal to obey an order given by the Court, in his capacity as C.A.O. The D.C.C.A.O. does not approve of an officer sitting on a court where he has such an interest in the proceedings.

107

Wark Hur

Major, AUS,
Chief Legal Officer.

228

61

SUBJECT:

Application for Review

A.C.G.,
H.Q. A.C.M.E.

120/202/238
25 Jan 44

3.1.0.
3.1.1. A.C.M.E. FORTH MEY

1. The D.C.C.A.C. has reviewed the proceedings of the Murray Court Case in which BOODO Sinsoppe was sentenced to 6 months imprisonment for possession of arms and ammunition (reference your 508/C1/13 of 20 Jan 1944) and has confirmed the finding and sentence.
2. BOODO was tried and convicted by Capt T.H. STUBBS, C.A.C. X Corps sitting as Summary Court at HELLER-GATE on 27 December 1944.
3. Please inform the applicant.

W. I. Hux

Major, AMB,
Chief Legal Officer.

106

HEADQUARTERS

AMG 5th ARMY

A.F.O. 464 U.S. ARMY

Legal Division

208/CA/13

20 January 1944

Subject: Petition to Review.

To : Chief Legal Officer, AMG., HQ., 15 Army Group,
A.F.O. 777.

There is forwarded herewith an application for review submitted on behalf of George Ginsapple, who was tried by a Summary Court in the X Corps area. The Torm 8 on which the proceedings are recorded is also forwarded herewith. The conviction is justified, and the sentence, if anything too mild.

105
for J.V.M. Snield,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

Subject:- Commutation of Death Sentence.

226
A.M.C.
Hq. A.C.H.F.
C.M.F.

Ref. 500/206/226
24 January 44.

S.L.C.,
Hq. H. Fifth Army.

This is to inform you by order dated 23 Jan 44 the Military Governor has commuted the sentence of death imposed upon ROBERT DRUM by a General Military Court on 14 Jan 44 to Twenty (20) years imprisonment.

2. I shall assume that you will take the steps necessary to have the prisoner transferred to an appropriate prison.

Ward H.R.

Major, A.C.H.F.,
Chief Legal Officer.

Copy to:- Major William Vaughn,
Hq. H. Fifth Army (Rear).

104

15 January 1944

SUBJECT: Summary Military Court Record.

TO : Chief Legal Officer, AMG, 8th Army, Vasto.

FROM : Civil Affairs Officer, Montedorisio.

Enclosed is a copy of the Summary Military Court Record of the Comune di Montedorisio to date.

Three persons have been tried and convicted but no fines have collected from any of them.

Theo. Cuthorn
Theo. Cuthorn, Capt. GMP.
Civil Affairs Officer
Montedorisio.

1st Inst.

To C. L. L. M. G. by 1st Army Group

in forward

Edwin M. Mercer

EDWIN M. MERCER, 1st Lt. GMP.
Chief Legal Officer, AMG, 8th Army

To C.L.O.,
G.M.C. 8th Armer.

Herewith copy of Summary Military Court
Record of cases tried by me 14-20 Dec. (incl:)
a Record of cases tried by Captain E. J. Boulton
at Paglietta o Torino di Sangro.

J. M. Lockford
Major. Legal Offr. Chief Ar.

22 Dec 43

102

S. EUSANIO DEL SANGRO

31-12-48

Subject: Court Report

To : AMG, L.O., 2 N.Z. Div

Enclosed complete
report for Summary Courts
held under my adminis-
tration in this Comune, also
records of each case.

There is one case waiting
for higher court left behind
by my predecessor. 101

Legal Officer
Present to you
information of
if necessary

Lieut Rancaud, C.M.P.
C.F.O.

Rancaud warned
re prot of lines to F.O. v
re lightness of sentences
Mercer //

2/1
RM

22 JAN 1944

222

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

SCB/pv
3/6071/1

21 January 1944

Subject: Record of a Superior Court, Naples, in
trial of Viscardi Giuseppe, 31 Dec. 43.

To : Chief Civil Affairs Officer, A.M.G.,
H.Q.A.F.I.

1. In the above case, the court imposed a sentence of imprisonment for two (2) years. As further punishment, it sentenced accused to pay a fine of 5000 lire, or, in default of payment, to serve six (6) months imprisonment.

2. Sec. 2, Art. V, Proc. 4 directs that the six (6) months imprisonment provisionally ordered to coerce payment of the fine shall "be considered as a part of the sentence" "for the purposes of Review". Consequently, for the purposes of Review, the sentence in this case appears to be one of two (2) years and six (6) months, and hence reviewable only by the C.C.A.O., or an officer designated by him (Sec. 3, Art. VII, Proc. 4, as amended.)

3. In view of pars. 1 and 2, the record in the above case is forwarded herewith.

For the Regional Civil Affairs Officer:

Douglas N. Batson
DOUGLAS N. BATSON,
1st Lt., C.M.F.,
Actg Asst Adj Gen.

22 JAN 1944

REGION 3, HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

SCB/em

1028

19 January 1944

Subject: Record of Superior Military Court
held at Naples, 29 Dec., 1943, in case
of Grippa Alfredo di Fortunato.

To : Chief Civil Affairs Officer, A.M.G.
15th Army Group, A.P.O. 777

1. A Superior Military Court sentenced the
accused to imprisonment for a period of three (3)
years in the above case.

2. As the sentence is one which must be
reviewed by the C.C.A.O., or an officer designated
by him, (Sec. 3, Art. VII, Proc. 4, as amended)
the record of the case is forwarded.

For the Regional Civil Affairs Officer

Douglas N. Batson

DOUGLAS N. BATSON

1st. Lt., C.M.P.

Actg. Asst Adj Gen.

SUBJECT: Application for Review of Sentence

219

AG
SI AGF
CIP

AG/200/219 ✓
22 Jan 44

RE: RE AG AGF AGF

1. Subject application submitted by MINISTRIA Nicolo and MINISTRIA Celestino has been received. The two applicants were convicted by a Summary Court held in CAMPBELL on 20 December 1943. The case appears on the CAMPBELL Summary Military Court Record as case No. 40.

2. Please secure from the Court a record on Form 6 and forward it to this HQ.

hand HWT

Major, AG,
Chief Legal Officer.

55

20 JAN 1944

Ref: CP/Legal/18. 218

17/1/44.

SUBJ: T: Application for Review of Sentence.
 TO: Senior Legal Officer, AMG. 8th. Army Main.
 FROM: L.O. , Campobasso Province.

In cases of Pietraroia Nicola, and Pietraroia Celestino, we are enclosing application for review of sentence. The record of trial in Summary Court has been heretofore forwarded for filing.

Shirley R. Marsh
 L.O., Campobasso Province.

*1st Ind.**To: CLO AMG HQ 15 Army Group*

97

- 1. Forwarded for review*
- 2. Underlined cases and sent sentence to review.*

EDWIN J. MERCER, Major
 SENIOR LEGAL OFFICER, AMG. 8th ARMY

21 JAN 1944

310 217

HEADQUARTERS REGION 4 MAIN
ALLIED MILITARY GOVERNMENT
A.P.O. 394

TO : C.L.O., A.M.G., HQ., A.F.I.
FROM : R.C.L.O., Region 4
SUBJECT : Review of Record in case of VITTOZZI, FRANCESCO
REFERENCE : R4/LE/30
DATE : 20 January, 1944.

with case

Forwarded herewith is self-explanatory letter
to be considered in conjunction with record sent you, re-
ference R4/LE/9, 17 Jan. 44.

For Regional Chief Legal Officer.

93
Paul E. Caseb
Cpl. Paul E. Caseb
Chief Clerk, Legal
Region 4.

*See
R4/LE/9*

SUBJECT: Summary Courts Record of Trial

203 216
AMG. H.Q. Eighth Army

25 JAN 1944
OA/13

C.L.O., AMG. H.Q. 15 Army Group

1087

18 January 1944.

1. Attached forwarded for examination and file.
2. Capt. Cawthorn has been instructed to include particulars of offense in his report.
3. A report has been requested from Capt. Ashton and Lt. Landesman as to apparent inadequacy of sentence.

Edwin G. Mercer
EDWIN G. MERCER, Maj. Ord.,
Senior Legal Officer,
AMG. H.Q. Eighth Army Main.

Subject: - Application for Review.

215
AMG HQ.,
15 Army Group,
C.M.F.

Ref. AMG/208/215.
16 January 44.

S.L.C.,
AMG HQ, Fifth Army.

213
Reference your 208/CA/13 of 10 January 1944, the
following information is submitted:

Name of Accused.....Acquara Giuseppe.
Name of Lawyer.....Romagnoli Felice.
Court.....Lt. Col. John B. Thornhill
as Summary Court at
Pietravairano, 9 Dec 43.

2. It is regretted that the full name of the accused
was not given in the original communication, but it was
thought that the reference to your letter of transmittal was
sufficient.

Ward Hurd
Major, A.U.S.,
Chief Legal Officer.

94

Subject: - Decision on Applications for leu.

AMC HQ.,
15 Army Group,
C.M.F.

Ref. JAG/208/214.
16 January 44.

S.L.O.,
AMC HQ, Fifth Army.

The D.C.G.A.O. has reviewed the applications submitted by the defendants listed below, and the results of the review are as indicated.

VOLPICELLI Gaetano - Summary Court - Roccamonfino.
(Your ref. 3/6071/L of 13 Dec 43)
Findings and sentence set aside.

MARTONE Aristide - Summary Court - Presanzano.
MARTONE Ernest -
(Your ref 208/CA/13 of 1 Jan
and 6 Jan 44.)
Findings and sentences confirmed.

JANUCCI Antonion - Summary Court - Sparanise.
TOSCANO Alberto -
LEUCI Ignazio -
(Your ref. 9 Jan 44.)

Janucci - Findings and sentence confirmed.
Toscano - Sentence reduced to 40 days imprisonment.
Leuci - Sentence reduced to 4 months imprisonment.

2.

Please inform the applicants of these results.

Handwritten signature

Major, A.U.S.,
Chief Legal Officer.

HEADQUARTERS
AMG 5 ARMY
A.P.O. 464 U.S. ARMY
Legal Division

213

208/CA/44¹³
10 January 1944

Subject : Application for review

To : Chief Legal Officer,
A.M.G. Headquarters,
15 Army Group,
A.P.O. 777 U.S. Army.

Referring to your communication of 5 January 1944 (AMG/8/200²⁰⁸), will you kindly return record of application for review, or advise me of the name of the accuseds' lawyer or the full name of all the accused. Otherwise it will be difficult to inform the accused of the result of their petition.

J. M. Shields
Lt. Col.
J. V. M. SHIELDS,
Lt. Col.,
Senior Legal Officer,
A.M.G. 5 Army.

Subject: - Applications for Review.

212
AMC HQ.,
15 Army Group,
C.M.P.

Ref. AMC/208/212 —
13 January 44.

S.L.O., Fifth Army.

Reference your 208/CA/13 of 9 January 1944 enclosing applications for review of sentence in the cases of Griffio, Sabatini and Rossi, will you please advise on what provisions of Italian law the charges against Sabatini and Griffio were based. The charge sheet merely stated "Clandestine transport of live stock, to wit, 2 hogs", for Sabatini, and "Clandestine transport of food commodities for Griffio.

Ward Hurd

Major, A.U.S.,
Chief Legal Officer.

HEADQUARTERS
AMG 5 ARMY
A.P.O. 464 U.S. ARMY
Legal Division

9 January 1944

Subject : Applications for review.

To: : Chief Legal Officer,
Headquarters, A.M.G.,
15 Army Group,
A.P.O. 777 U.S. Army.

Forwarded herewith are records of proceedings before
Summary Military Courts, together with applications for review of
sentence in the cases of Janucci, Toscano and Leuci.

These cases require not particular comment.

J. V. M. Shields
Lt. Col.
J. V. M. SHIELDS
Lt. Col.,
Senior Legal Officer,
A.M.G. 5 Army.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
13 December, 1943

Subject: Petitions to Review

To : Chief Legal Officer, HQ., AMG., 15 Army
Group, A.P.O. 777 C.M.F.

1. There is forwarded herewith a petition to review submitted on behalf of Russo Giovanni. A previous petition on behalf of this accused was forwarded to you with my letter of 2 December, 1943 (Amgot 3/6071/L), together with the Form 8.

2. There is also forwarded the petition to review submitted on behalf of Marchese Luigi and Petrecione Domenico and the Form No. 8 and accompanying papers relating thereto. The only question calling for comment is the fact that there was no completed sale and hence no wilful disobedience of the AMG price order. Consequently, if the conviction is to be sustained, it must be on the ground that there may be an attempt to disobey wilfully an order and that an offer to sell is such an attempt. This is an unusual situation to which to apply the law of criminal attempt. The usual doctrine is that an attempt must be beyond the stage of mere preparation and it must be within the power of the accused to complete the act if uninterrupted. But here the intervention and consent of another is required. It would be better no doubt if price orders contained an express provision to the effect that no one shall offer to sell, as well as sell, in excess of the prices stipulated as do all American statutes of this category instead of invoking the law of attempt. The danger of this doctrine as applied to disobedience of an order is illustrated by the case discussed in the following paragraph.

3. There is also forwarded a petition to review submitted on behalf of Volpicello Gaetano fu Raffaele and the record of proceedings on Form 8 and accompanying papers. The first charge alleges that the accused offered to trans-

To : Chief Legal Officer, HQ., AMG., 15 Army
Group, A.P.O. 777 C.M.F.

1. There is forwarded herewith a petition to review submitted on behalf of Rocco Giovanni. A previous petition on behalf of this accused was forwarded to you with my letter of 2 December, 1943 (Amgot 3/5071/L), together with the Form 8.

2. There is also forwarded the petition to review submitted on behalf of Marchese Luigi and Petrone Domenico and the Form No. 8 and accompanying papers relating thereto. The only question calling for comment is the fact that there was no completed sale and hence no wilful disobedience of the AMG price order. Consequently, if the conviction is to be sustained, it must be on the ground that there may be an attempt to disobey wilfully an order and that an offer to sell is such an attempt. This is an unusual situation to which to apply the law of criminal attempt. The usual doctrine is that an attempt must be beyond the stage of mere preparation and it must be within the power of the accused to complete the act if uninterrupted. But here the intervention and consent of another is required. It would be better no doubt if price orders contained an express provision to the effect that no one shall offer to sell, as well as sell, in excess of the prices stipulated as do all American statutes of this category instead of invoking the law of attempt. The danger of this doctrine as applied to disobedience of an order is illustrated by the case discussed in the following paragraph.

3. There is also forwarded a petition to review submitted on behalf of Volpicello Gaetano fu Raffaele and the record of proceedings on Form 8 and accompanying papers. The first charge alleges that the accused offered to transport for hire individuals from Roccomonfino to Naples in a truck without a proper AMG permit and in wilful disobedience of orders given under authority of the Allied Forces against civilian travel in a combat zone, in violation of par. (44) of Proclamation 2, which prohibits wilfully disobeying any AMG order. I do not believe these facts constitute

209
 a proper charge, unless they constitute an attempt wilfully to disobey under Sect. 2 of Art. III of Proclamation No. 2; and, as to that it appears that the stage of preparation had not yet been completed, even if it conceded that there can be an attempt wilfully to disobey.

4. The second charge states the same facts on the theory that they constitute a violation of par. 45 of Proclamation No. 2 as an act prejudicial to good order or safety or security of Allied Forces. It is not reasonable, I believe, to conclude that an offer to transport constitutes any such act, or indeed that the transportation if in fact completed would constitute such an act.

5. The third cause of action states the same set of facts on the theory that the facts constitute attempts to violate pars. 44 and 45, a theory which has already been discussed above.

6. If the foregoing is sound, the accused has pleaded guilty to allegations which do not state valid charges under our proclamations and the conviction and sentence of 6 months and L. 50000 fine should be set aside. The evidence introduced by the prosecution is not inconsistent with the allegations as it states that the C.A.C. (the Judge incidentally who subsequently tried the case) found the accused loading a truck in the main street of the city and that he said frankly he was going to transport persons and goods to Naples.

7. Even if technically an offense under our proclamations, the facts stated do not appear to justify such a heavy sentence in the light of the damage done, if any.

8. Aside from these considerations, the evidence for the prosecution also clearly shows that the accused thought he was authorized to travel throughout the province without any further pass than the "NAPLES and PROVINCE" AMG windshield sticker which he had and that he therefore claimed a bona fide mistake. Consequently it should have been apparent to the Summary Court that he did not intend to plead guilty to a charge of wilful disobedience. Therefore, there should be a new trial on the first charge before a judge who is not the complaining witness, and the entire sentence should be set aside in view of the fact that it was imposed in respect of all the offences charged.

Proclamation No. 2 as an act prejudicial to good order or safety or security of Allied Forces. It is not reasonable, I believe, to conclude that an offer to transport constitutes any such act, or indeed that the transportation if in fact completed would constitute such an act.

5. The third cause of action states the same set of facts on the theory that the facts constitute attempts to violate pars. 44 and 45, a theory which has already been discussed above.

6. If the foregoing is sound, the accused has pleaded guilty to allegations which do not state valid charges under our proclamations and the conviction and sentence of 6 months and L. 50000 fine should be set aside. The evidence introduced by the prosecution is not inconsistent with the allegations as it states that the C.A.C. (the Judge incidentally who subsequently tried the case) found the accused loading a truck in the main street of the city and that he said frankly he was going to transport persons and goods to Naples.

7. Even if technically an offense under our proclamations, the facts stated do not appear to justify such a heavy sentence in the light of the damage done, if any.

8. Aside from these considerations, the evidence for the prosecution also clearly shows that the accused thought he was authorized to travel throughout the province without any further pass than the "NAPLES and PROVINCE" AMG windshield sticker which he had and that he therefore claimed a bona fide mistake. Consequently it should have been apparent to the Summary Court that he did not intend to plead guilty to a charge of wilful disobedience. Therefore, there should be a new trial on the first charge before a judge who is not the complaining witness, and the entire sentence should be set aside in view of the fact that it was imposed in respect of all the offences charged.

9. In view of all the foregoing considerations, it is recommended that the conviction and sentence be set aside, or at least, that the sentence be substantially reduced.

Henry L. Shields
Capt. J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

10. If the view expressed above in regard to an attempt wilfully to disobey is adopted, the conviction and sentence of Marchese and Petriccione should be quashed.

11. In view of the other facts involved in the Volpicello case, in which a new trial is indicated because of the question of the plea and the fact that the complaining witness was sitting as judge, the accused has been released on bail pending a disposition of his petition to review.

mls

Ind. 4 - cases

208

208/CA/13.

6. 1. 44

207

My dear Hase,

We arrived back safely this morning although we had to go by an indirect route as we couldn't get across the mountains and our trip was fairly bumpy.

2. I did enjoy meeting you very much and we cleared a lot of points which have been obscure to date. I also want to thank you & the other officers in the mess for your very kind hospitality.

3. As I find on my return as expected I have no clerical assistance now, so will you please excuse in this personal letter my sending the record in the case of

NARONE, Aristotle Ernest, which is
referred to in my letter of
enumber dated 1.1.44
but which I omitted to bring
over to Bai with me. Brown
was the letter.

4 Again thanking you very
much for your kindness I hope
to see you here soon

Yours very sincerely
J. H. Shield.

5
H. H.

Subject: - Review of Allied Military Court Cases

206

AMG Hq.,
15 Army Group,
C.M.F.

Ref. AMG/208/206 ✓
9 January 44.

R.C.A.O., Region III.

205

Reference your 3/6071/L of 1 January 1944, receipt is acknowledged of the Allied Military Court Records transmitted therewith.

2. This Headquarters agrees that when any sentence in a case exceeds two years imprisonment or a fine of 50,000 lire, the entire case should be reviewed by the D.C.C.A.O., and a general instruction to that effect will be issued in the near future.

Wend H. H. H.

Major, A.U.S.,
Chief Legal Officer.

85

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
APO 394, U.S. Army

7 JAN 1944

SCB/ef
3/6071/L

1 January 1944

SUBJECT: Cases of A.M.G.v. Recchia Domenico
and Virginio Pasquale.
Cases of A.M.G.v. Pacifico Incoronasa and 47 others.

TO: Chief Civil Affairs Officer, A.M.G., 15th Army
Group, A.P.O. 777.

1. Herewith are the records in the two cases above.
2. In the first, there is one sentence in excess of 2 years, and, in the second, two such sentences. In each case, the charge against all defendants is the same, and is based upon the same transaction in which all are alleged to have participated. Likewise, in each case, the same evidence was adduced to sustain the charges against all defendants in the case.
3. Since the R.C.A.O. is not authorized to review sentences exceeding two years, and, with the situation as above, it is felt that the cases should be sent to you with the suggestion that the review by you be of all sentences, below as well as above the limit of the R.C.A.O.'s authority to review, in order to obviate any possibility of inconsistencies of decision which could result from divided reviews.
4. Will you kindly advise the R.C.A.O. of the view you take of this suggestion, for his guidance in these and similar cases in the future?

For the Regional Civil Affairs Officer:

Douglas N. Batson
DOUGLAS N. BATSON,
1st Lt, C.M.P.,
Actg. Asst. Adj. Gen.

REC'D 28 DEC 43

Legal Div.
2012
9012
Allied Military Government
Province of Benevento

Subject: Superior Court Trial of
Recchia, Dominico and Virginio,
Pasquale.

TO:

Headquarters, (Chief Legal Officer).
Region 3.

1. Herewith enclosed Form 8 in duplicate
being return of Trial of the above named held
at S. Bartolomeo on the 22nd. of December.

Benevento

28th Dec. 43.

A. G. Blair
Acting Legal Officer
Major

Legal Div. 203
6071
Allied Military Government
Province of Benevento.

Subject: Trial of Pacifico, Incoronata
and 47 others under Proc. 2,
Art. 2; Sec. 32.- S. Bartolomeo
Benevento Province.

TO:

Headquarters, (Chief Legal Officer)
Region 3

1. Herewith is forwarded form 8 being record
of Superior Court on trial of what is termed the
Riot of S. Bartolomeo of 16th and 17th of Dec. 43.

2. Also enclosed is a petition in the form of
letter from the father, attached to Petition form 11.

Owing to the length of the proceedings it was not deemed
necessary to make additional copy of the proceedings
for the petition in view of the fact that the original
record is forwarded by concurrent mail.

3. The petitioner simply forwarded the letter
and hence there is no record of the accused. It is
unofficial understood that this accused's record is
clear.

Benevento

28th Dec. 43.

[Signature]
Acting Legal Officer
maj

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

Segal
8 JAN 1944

202

SCE/pv
3/6071/L

3 January 1944

Subject: Record of General Military Court held at
Torre del Greco, 21 Dec. 1943, in case of
Antonio Mazzacane.

To : Chief Civil Affairs Officer, A.M.G., 15th
Army Group, A.P.O. 777

1. The court sentenced the defendant to
imprisonment for a period of five (5) years in the
above case.

2. As the sentence is one which must be
reviewed by the Chief Civil Affairs Officer or an
officer designated by him (sec. 3, Art.VII, Proc.
No. 4, as amended) the record of the case is for-
warded.

For the Regional Civil Affairs Officer:

81
Douglas N. Batson
DOUGLAS N. BATSON,
1st Lt., C.M.P.,
Actg Asst Adj Gen.

1 Incl -
Record of trial.

Subject: - Superior Military Court Proceedings.

201

ASC HQ.,
15 Army Group,
G.M.F.

Ref. AMG/208/201
6 January 44.

R.C.L.C.,
AMG, Region III.

Herewith Superior Court Proceedings in the case
of Bonaselli, Froise and Magri which were erroneously sent
to this Headquarters with other enclosures from the R.C.L.C.,
Region IV.

Major, A.U.S.,
Chief Legal Officer.

80

Subject: - Application For Review.

200

ADG Hq.,
15 Army Group,
G.M.F.

Ref. AGD/208/200. —
2 January 44.

S.L.C.,
AGC Fifth Army.

199

Reference your letter 208/CA/13, 1 January 1944,
the D.C.S.M.C. has reviewed the case of Acquaro and has
confirmed the finding and sentence.

2. Please inform the accused the result of his
petition.

Major, A.T.S.,
Chief, Legal Officer.

73

58 199
ALLIED MILITARY GOVERNMENT
HEADQUARTERS, 5th ARMY
APO 464
LEGAL DIVISION

208/CA/13
1 January 1944

SUBJECT: Petitions to Review

TO : Chief Legal Officer, Headquarters, AMG, 15 Army Group,
APO 777, US Army

1. There are forwarded herewith Records of proceedings of Summary Military Court cases in the II Corps Area, Marione, Aristite and Ernest, and Acquara, Giuseppi, together with application for review of sentence. The evidence clearly justifies the conviction in each and the sentence was within the bounds of reasonable discretion.

*Adm. and. Sub. to
Col. Shields for review
check, 4/1*

J. V. M. Shields
Lt. Col.
J.V.M. SHIELDS, Lt. Col.,
Senior Legal Officer,
AMG, 5th Army

Incl: (2)
Pets to Rev

78

Subject: - Application for Review of Sentence -
Sivilla Pasquale.

198
AMG Hq.,
15 Army Group,
G.M.F.

Ref. AMG/208/198
4 January 44.

S.L.O.,
Hq. AMG, Eighth Army.

The subject application has been received in this Headquarters but our files fail to disclose receipt of the Record of Proceedings. Accused was tried by Capt. H.S. Pollard as Summary Court of Campobasso on 30 Nov 43.

2. Please secure the Form 3 from Capt. Pollard and forward, so that the review may be accomplished.

Ward How

Major, A.U.S.,
Chief Legal Officer.

Subject: Petition of Di Guglielmo Renato.

197

H. Q., A. M. O.,
15 Army Group,
C. M. P.

R. C. I. O.,
H. Q. A. M. O.,
Region III.

AMG/258/197.

29 Dec. 1953.

The D. C. C. A. O. has considered the Application for Review of Sentence submitted by the above-named defendant and has set aside the conviction on the first charge, confirmed the conviction on the second and reduced the sentence to one of six (6) months imprisonment and a fine of twenty thousand (20,000) lire, or in default of payment, a further three (3) months imprisonment.

2. Please notify the petitioner and the prison authorities of this result.

Luigi Howe

Major, AUS,
Chief Legal Officer.

196

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

RMCC/pv
3/6061/L

26 December, 1943

MEMORANDUM for Chief Legal Officer, Hq. A.M.G., 15th Army
Group.

Subject: Allied Military Courts - Salerno. Case of ADOLFO
LANDI.

1. Reference is made to letter your headquarters
to Senior Legal Officer, Hq. A.M.G. 5 Army, 18 December
1943, subject as above (A.M.G./208/III).

2. There is attached a copy of a letter to the
S.C.A.O., Salerno Province, by which the papers in the case
of LANDI has been forwarded for appropriate disposition.

3. Region III is not now concerning itself with
Salerno Province and it is assumed here that Salerno Prov-
ince is now administered separately or as a part of Region
II.

Riley M. McClain
RILEY McCLAIN,
Lt. Col., J.A.G.D.,
Legal Officer.

Copy to Legal Officer, A.M.G. Fifth Army.

*M.A.
B.H.B.*

195

HEADQUARTERS
REGION 3, ALLIED MILITARY GOVERNMENT
A.P.O. 394, U.S. Army

26 December, 1943

RMcC/pv
3/6071/L

Subject: Record of trial by A.M.G. Superior Military Court - ADOLFO LANDI and AMEDEO IORIO - Salerno Province - Petition by LANDI for Modification of sentence.

To : Senior Civil Affairs Officer, Salerno Province.

1. Under date of 18 December 1943 A.M.G. Headquarters 15 Army Group advised the Senior Legal Officer, A.M.G. Fifth Army in relation to the subject case as follows:

" x x the proceedings in the above case are returned to you as this HQ has no jurisdiction in the Province of Salerno."

2. Accordingly, the papers in the subject case are forwarded to you for appropriate disposition.

For the Regional Civil Affairs Officer:

Douglas N. Batson
DOUGLAS N. BATSON,
1st Lt, CME,
Actg Asst Adjutant General.

1 Incl-
Record, etc. - LANDI and IORIO

Copy to C.L.O., Hq. A.M.G., 15th Army Group.

194

ALLIED MILITARY GOVERNMENT
AMG, 5th ARMY
APO 464
LEGAL DIVISION

208-

208/CA
23 December 1943

SUBJECT: Allied Military Courts--SALERNO

TO : Chief Legal Officer, AMG Headquarters, 15th Army
Group, APO 777, CMF

1. Referring to your communication of 18 December 1943
(Ref: AMG/208/111), the Province of SALERNO was separated from
Region 3 and constituted a part of Region 2 as of 4 December 1943.
As directed, I am returning the papers relating to the appeal
of Landi, to SALERNO.

2. These and other Petitions to Review convictions
by Military Courts sitting in the Province of SALERNO were
forwarded to you before the separation of SALERNO Province
from Region 3; and others were forwarded to you after
4 December on the understanding that the reviewing authority
at the time of the trial by a Military Court would remain
the reviewing authority after the separation of SALERNO
Province from Region 3, for cases tried prior to such
separation.

Henry L. Glenn
Capt. J. A. P.
J. V. M. SHIELDS, Lt. Col.,
Senior Legal Officer,
AMG, 5th Army

208-4

Subject:- Petition of Marchesani Santa.

193

AMG Hq.,
15 Army Group,
C.I.P.A.

Ref. AM/200/193
28 December 43.

S.L.O.,
AMG Hq. Eighth Army.

-162

Reference your OA/13 of 28 Dec 43, the D.C.C.A.O. has considered the petition of Marchesani Santa and has confirmed the sentence.

2. Please inform the defendant of the result of his appeal.

Ward H.W. Howe

HB/ES.

Ward H.W. Howe, Major, A.U.S.,
Chief Legal Officer.

72

Subject:- At al. of WSSO Achille.

192
APC Hq.,
15 Army Group,
C.M.F.

Ref. VC/206/191 —
28 December 43.

S.L.O.,
APC Hq., Eighth Army.

The D.C.C.A.O. has considered the application for Review of Sentence imposed upon the above named defendant by a Superior Court sitting at Campobasso on 3 December 43.

On review the finding of guilt has been confirmed, but the D.C.C.A.O. has ordered that the sentence be reduced to one year's imprisonment from December 3, 1943.

Will you please see that the defendant is informed of this disposition of his appeal.

Ward J.W. Howe

EDWH/ES.

Mark Dew. Howe, Major A.U.S.,
Chief Legal Officer.

Subject: - BONI Umberto.AMG HQ.,
15 Army Group,
G.M.F.Ref. AMG/203/68
27 December 43.R.C.A.O. AMG HQ. Region IV Adv.
.....

Reference your t/213/Legal of 24 December.

1. On 24 December the above named individual still being in Bari, the Chief Legal Officer on the request of R.C.A.O. signed a letter addressed to avv. Bonito informing him that the sentence of the Summary Court of Cerignola had been reversed and that he was free to return to Foggia Province. It should be added that Col. Rowe, who was familiar with the details of the case had left HQ at that time and his successor believed that the delay in giving prompt effect to the reversal of sentence was due only to difficulties of communication.

2. Replying to para graph 6 of the SCAO's letter of 23 Dec, (PR/1101), the power of the SCAO to order Bonito to remain outside of the commune of Cerignola is clear. Any implication in our communication of 18 December that this could be done only if Bonito held public office was unintended.

3. The source of the power of the SCAO to issue such an order is not Section 2 of Proclamation 1. The right arises from Article VII of Proclamation 2, which, in its 2nd section, provides for the detention of persons committing or intending to commit offenses or engaging in political activity hostile to the Allied Military Government. Orders limiting the area within which a person may reside are considered to be orders of detention within the meaning of that Article. Needless to say the procedures set forth in Section 2, paragraph 2, must be followed. It is, of course, impossible for us to say on the record presently before us whether or not an order to Bonito forbidding him to remain in Cerignola would or would not be sustained. It is important to remember, however, that the authority to issue such orders must be exercised with the greatest caution and in no other circumstances than those described in Article VII itself.

4. In the papers accompanying the petition for review it was stated that Bonito held the position of Vice-Commissario Prefettizio in Cerignola. The position which he may or may not have held in his community did not, of course, affect the decision on review. Our reference to him in our letter of 18 December as Commissario was an inadvertent error.

Hand file this

MDWH/ES.

Mark Don. Howe, Major, AUS,
Chief Legal Officer.

AMG REGION IV ADVANCED
c/o HQ. AMG 15 ARMY GROUP

TO : HQ. AMG, 15 Army Group
FROM : HQ. AMG, Region IV Advanced
SUBJECT: BONITO, Umberto
REF : T/215/Legal
DATE : 24 December 1945

1. The SCAG, FOGGIA Province has raised the question whether his contemplated action in the case of Bonito, Umberto, will be considered proper, and will be supported by higher authority. He proposes to order Bonito to remain within some stated commune other than Gerignola. Until approval is received of this proposal, he plans to instruct Bonito to remain in the Commune of Foggia. Copy of letter FR/1101, 23 Dec. 45, from SCAG, FOGGIA Province, is attached herewith.

2. Does the SCAG's proposal come within par. 3 of letter AMG/200, 18 Dec. 45, from HQ. AMG, 15 Army Group?

3. Although purely academic in this particular case, as a matter of procedure in future cases, the incorrect information in the AMG, 15 Army Group letter, AMG/205, 18 Dec. 45, that Bonito was Commissario prefettizio raises the question whether evidence from some outside source was considered in the review of the case without also asking Region IV to submit its evidence. In accordance with instructions then in force, evidence in summary court cases was not forwarded automatically, and none was asked. The record of the Bonito case was forwarded for review in routine fashion, along with many others.

For SCAG Region IV :

JOHN OLIVER HALL,
MAJOR, F.A.

Ref FP/1101SUBJECT:- BONITO, Umberto.23 Dec 43.

TO:- AMG, Region IV Adv. (2). Copy to:- ~~CAC, CERIGNOLA~~
~~Prefect.~~
 Public Safety.
 Legal.

FROM:- AMG, FOGGIA PROVINCE.

Reference your letter T/182/Leg of 19 Dec 43.

1. I note that D.C.C.A.O. has quashed the finding and sentence in the case of BONITO, Umberto, and that Bonito is accordingly free to return to this Province.
2. I attach hereto, at appendix "A", copy of a letter from A.C.C.L.O., BARI, dated 23 Nov 43, from which it will be seen that Bonito personally stated to A.C.C.L.O. that he would return to CERIGNOLA in spite of the sentence; that there were 40,000 persons living in CERIGNOLA, all friends of his and that there would be trouble if he were re-arrested. Copy of this letter was forwarded to AMG, Eighth Army on 1 Dec 43. This is a fair sample of Umberto BONITO'S behaviour.
3. I attach hereto at Appendix "B", copy of letter from BONITO, Antonio, (brother of Umberto), dated 16 Nov 43, to the Commissario Prefettizio of the Commune of ORTANOVA exercising Political pressure of an undesirable kind outside his own Commune. This is a fair sample of the brother's actions.
4. There is no doubt in my mind that the activities of the BONITO brothers in CERIGNOLA have interfered with proper Allied Military Government there. I am not, of course, concerned with the judicial aspects of the case, which is a matter for the Courts and for the reviewing authority, and is outside my sphere - but I am concerned with the proper Government of this Province; and in my opinion it is most dangerous, in the present Political set-up, for a man of the character of BONITO to be allowed to return to CERIGNOLA to boast (as he certainly will), that he has got the better of the local A.M.G. I have been at great pains to bring the Communist activities into the open and induce Communist Leaders to co-operate with A.M.G. and not to undermine it. My C.A.Os. have been instructed to get to know personally the leaders of all parties and to employ them in useful work. But the success of this policy rests on the knowledge by Party Leaders that they must co-operate with us and will get into trouble if they fail to do so. BONITO'S return to CERIGNOLA would spread the idea that obstruction of A.M.G. is as safe as co-operation. BONITO will, almost certainly, use his release to the full for increasing his local authority and I believe he will use that authority against the interests of the Allied Forces.
5. Para 3 of AMG, 15 Army Gp letter AMG/208/ of 18 Dec, which authorises me to remove BONITO from the Office of Commissario Prefettizio or transfer him elsewhere (presumably as Commissario Prefettizio) does not apply as the Prefect informs me that BONITO

is accordingly free to return to this Province.

2. I attach hereto, at appendix "A", copy of a letter from A.C.C.L.O., BARI, dated 23 Nov 45, from which it will be seen that Bonito personally stated to A.C.C.L.O. that he would return to CERIGNOLA in spite of the sentence; that there were 40,000 persons living in CERIGNOLA, all friends of his and that there would be trouble if he were re-arrested. Copy of this letter was forwarded to AMG, Eighth Army on 1 Dec 45. This is a fair sample of Umberto BONITO'S behaviour.

3. I attach hereto at Appendix "B", copy of letter from BONITO, Antonio, (brother of Umberto), dated 16 Nov 45, to the Commissario Prefettizio of the Comune of ORTANOVA exercising Political pressure of an undesirable kind outside his own Comune. This is a fair sample of the brother's actions.

4. There is no doubt in my mind that the activities of the BONITO brothers in CERIGNOLA have interfered with proper Allied Military Government there. I am not, of course, concerned with the judicial aspects of the case, which is a matter for the Courts and for the reviewing authority, and is outside my sphere - but I am concerned with the proper Government of this Province; and in my opinion it is most dangerous, in the present political set-up, for a man of the character of BONITO to be allowed to return to CERIGNOLA to boast (as he certainly will), that he has got the better of the local A.M.G. I have been at great pains to bring the Communist activities into the open and induce Communist Leaders to co-operate with A.M.G. and not to undermine it. My C.A.Os. have been instructed to get to know personally the leaders of all parties and to employ them in useful work. But the success of this policy rests on the knowledge by Party Leaders that they must co-operate with us and will get into trouble if they fail to do so. BONITO'S return to CERIGNOLA would spread the idea that obstruction of A.M.G. is as safe as co-operation. BONITO will, almost certainly, use his release to the full for increasing his local authority and I believe he will use that authority against the interests of the Allied Forces.

5. Para 3 of AMG, 15 Army Gp letter AMG/208/ of 18 Dec, which authorises me to remove BONITO from the Office of Commissario Prefettizio or transfer him elsewhere (presumably as Commissario Prefettizio) does not apply, as the Prefect informs me that BONITO was NOT Commissario Prefettizio for CERIGNOLA or for any other place, (it would be interesting to know where this mis-information came from.)

6. I assume however, that, as S.C.A.O., I have power under Proclamation I Section II to issue such orders to Italian civilians as are compatible with the customs of War and the Hague Convention, in order to safeguard the Allied interests in this Province. May it be stated please, whether an order for BONITO to remain within some stated Comune other than CERIGNOLA would be considered as a proper order in these circumstances, and whether in BONITO'S particular case it would be supported by Higher Authority?

7. Meanwhile, I propose to instruct BONITO to remain in the Commune of FOGGIA until he receives further orders.

CET/EGPM.

Ch. Long
Lt. Colonel,
S.C.A.O. FOGGIA PROVINCE.

(COPY)

23 Nov 43.

SUBJECT:- Umb to BONITO, former Vice Podesta, CERIGNOLA

TO:- S.C.A.O. FOGGIA PROVINCE.

FROM:- A.C.C.L.O., BARI.

1. With further reference to your communication of 17th Nov, 43, concerning the conviction, fining and sentencing of Umberto BONITO, former Vice Podesta of CERIGNOLA, and suspension of the fine and sentence on condition that BONITO left the Province of FOGGIA and did not return thereinto without first obtaining permission from AMGOT.
2. This man reported at this Office on 19 Nov 43, presenting copy of a letter in Italian which he had addressed to AMG, CERIGNOLA, in which he disclaimed guilt of the charges upon which he was convicted.
3. BONITO requested that this office ask permission of your Office to return to CERIGNOLA, saying he was suffering from a stomach ailment, and that he could not obtain proper diet here in BARI, and also that he was not given sufficient time to wind up his affairs in CERIGNOLA.
4. He was advised by this Office that his request would be taken up with your Office, but efforts to contact you by telephone were futile.
5. The next day, 20 Nov, BONITO again visited this Office, in company with a brother and a man named MATTEO Altomare, who said he is secretary of the Fronte Nazionale di Liberazione, Piazza Roma, 18, BARI. BONITO said he was temporarily domiciled at the Albergo Moro, via Piccinni 51, BARI.
6. The man ALTOMARE constantly interjected comments and remarks during the conversation with BONITO, and later our doorman advised that this Altomare had frequently appeared in our reception room, causing trouble by trying to dictate to the doorman as to who should or should not be admitted.
7. Yesterday, BONITO and ALTOMARE again appeared at this Office and when advised there was no authority for BONITO to return to CERIGNOLA, BONITO stated he would return there without a permit; that there were 40,000 persons living in CERIGNOLA, all friends of his, and that there would be trouble there if he were re-arrested.
8. Besides this threat of causing trouble in CERIGNOLA, he and ALTOMARE both indicated by their tone that they considered they were dealing with "Fascists" in FOGGIA PROVINCE. BONITO stated that he, as an anti-Fascist, had always been friendly to the Allies and had sought to help them, but that, in view of the treatment in this case, he would "take matters into his own hands."
9. The impression he left in this Office appears to confirm the statement contained in your communication that he is a trouble-maker and apparently an aggressive type of educated Communist. ALTOMARE

concerning the conviction of the former Vice Podesta of CERIGNOLA, and suspension of the fine and sentence on condition that BONITO left the Province of FOGGIA and did not return thereinto without first obtaining permission from AMGOT.

2. This man reported at this Office on 19 Nov 43, presenting copy of a letter in Italian which he had addressed to AMG, CERIGNOLA, in which he disclaimed guilt of the charges upon which he was convicted.

3. BONITO requested that this office ask permission of your Office to return to CERIGNOLA, saying he was suffering from a stomach ailment, and that he could not obtain proper diet here in BARI, and also that he was not given sufficient time to wind up his affairs in CERIGNOLA.

4. He was advised by this Office that his request would be taken up with your Office, but efforts to contact you by telephone were futile.

5. The next day, 20 Nov, BONITO again visited this Office, in company with a brother and a man named MATTEO ALTOMARE, who said he is secretary of the Fronte Nazionale di Liberazione, Piazza Roma, 18, BARI. BONITO said he was temporarily domiciled at the Albergo Moro, via Piccinni 51, BARI.

6. The man ALTOMARE constantly interjected comments and remarks during the conversation with BONITO, and later our doorman advised that this Altomare had frequently appeared in our reception room, causing trouble by trying to dictate to the doorman as to who should or should not be admitted.

7. Yesterday, BONITO and ALTOMARE again appeared at this Office and when advised there was no authority for BONITO to return to CERIGNOLA, BONITO stated he would return there without a permit; that there were 40,000 persons living in CERIGNOLA, all friends of his, and that there would be trouble there if he were re-arrested.

8. Besides this threat of causing trouble in CERIGNOLA, he and ALTOMARE both indicated by their tone that they considered they were dealing with "Fascists" in FOGGIA PROVINCE. BONITO stated that he, as an anti-Fascist, had always been friendly to the Allies and had sought to help them, but that, in view of the treatment in this case, he would "take matters into his own hands."

9. The impression he left in this Office appears to confirm the statement contained in your communication that he is a trouble-maker and apparently an aggressive type of educated Communist. ALTOMARE falls into the same category, in the opinion of this Office.

10. The above for your information and guidance in case BONITO should re-appear without permission in CERIGNOLA.

H. ARMAND de MASI, Capt. Spec.Res.
ACC Liaison Officer, BARI. AUS.

Copy to:- CAO, CERIGNOLA.

/EGFM.

(COPY)

16 Nov 43.

164

NATIONAL FRONT OF ACTION.

COMMITTEE FOR THE CAPITANIA.

To: The Commissario Prefettizio,
ORTANOVA.

This Committee, after having examined the Political situation in CARAPELLE Village in your Commune, think it proper, in conformity with the Political policy of the Central Committee, that you nominate as Delegate of the aforesaid Village, MR. DEL GROSSO GERMANIA, who has always been anti-Fascist and was the socialist Sindaco of the pre-fascist epoch.

Any other reservation on your part cannot possibly be taken without falling short in the discipline, which all the adherents of the National Fronte must accept, because it concerns a discipline which has been adopted in a complete freedom.

I beg you to let me know the names of the members of the Sub-Commission collaborating with you, which must, I remind you, be those chosen in full agreement with the local Committee.

I await a clear reply.

Signed:- The President,
ANTONIO BONITO.

66

Subject: Application of Marchesani Sante
for review of sentence

Seegal
21 DEC 1943

HQ., A M G
Eighth Army
OA/13
18. Dec. 43

To: C.L.O. A.M.G. HQ., 15 Army Group.

1. Attached is subject application with comments by trial Officer.
2. We have no form N. 11 at these HQ. Will you please forward about 200.

Edwin J. Mercer
Edwin J. Mercer, Maj.
S.L.O., A.M.G. 8th Army
for O.C., HQ., 8th Army Main

To: - Avv: Umberto Bonito.

158
AMG Btl.,
15 Army Group,
C.M.F.

Ref. 106/203/158
26 December 43.

Dear Sir,

This is to advise you that your appeal from the sentence of the Summary Military Court held at Cerignola has received consideration by the D.C.C.M.O. The decision on appeal is that the sentence is reversed. You are, accordingly, free to return to Foggia Province.

Very sincerely yours,

Mark DeWitt, Major, AMB,
Chief Legal Officer.

106/203.

UNITED STATES GOVERNMENT
 WASHINGTON, D.C. 20540

8 December 1948.

In reply
 refer to: 100/1/112.

SUBJECT: Compensation of Rev. Donato, Mexico.

TO : Mrs. Guadalupe Donato,
 c/o Alameda -
 Comodoro de Liberaciones al Nord
 Via Tama 18,
 Mex.

Dear Mrs. Donato:

Your letter with enclosures on the above subject has been received here by Major General Jeyou. In view of the fact that Mr. Donato has been convicted by an Allied Military Court any revision of the punishment imposed upon Mr. Donato is only possible on a review of the case in accordance with Proclamation 4 Art. VII.

In the circumstances, although your letter should not have been addressed to the Allied Control Commission, I am directed to say that your letter and accompanying statement will be treated as a Petition for review in accordance with the above mentioned Article and that have accordingly been forwarded to the Chief Civil Affairs Officer who will review your husband's case in due course.

If the Chief Civil Affairs Officer is satisfied that

157

In reply
refer to: APO/1/112.

SUBJECT: Condición de Arv. Bonito, Udearito.

TO : Mr. Clusentius Bonito,
c/o Alvarado
Comité de Informaciones al Bar
P.O. Box 11.
Bari.

Dear Mr. Bonito:

Your letter with enclosures on the above subject has been received here by Major General Joyce. In view of the fact that Mr. Bonito has been convicted by an Allied Military Court any revision of the punishment imposed upon Mr. Bonito is only possible in a review of the case in accordance with Recommendation 4 art. VII.

In the circumstances, although your letter should not have been addressed to the Allied Control Commission, I am directed to say that your letter and accompanying statement will be treated as a Petition for review in accordance with the above mentioned Article and they have accordingly been forwarded to the Chief Civil Affairs Officer who will review your husband's case in due course.

If the Chief Civil Affairs Officer is notified that any revision of the punishment imposed upon Mr. Bonito is required, your husband will be notified.

G. B. HOSKIN, Colonel
Legal Administration, AGO.

SUBJECT: Records of trial in Summary Courts Cases
of (A) Mario Caruso
(B) Serafino Dionisio.

AMC. H.Q. 8 Army.

Ref: OA/13

19 Dec. 43.

O.L.O., AMC H.Q.
15 Army Group.

1. Subject forwarded for review and file.
2. Comments to trial by Major Wellsford and undersigned attached.



EDWIN J. MERCER,
Major,
S.L.O. AMC Eighth Army.
for O.C. H.Q. AMC Eighth Army.

Incl: Major Wellsford letter
Copy of Major Mercer's letter.

62

151

SUBJECT: Record of trials in cases of:-

A.C. B.C. B.C. B.C.

(a) Mario Garza

Ref: 04/15

(b) Camilo Domínguez

19 Dec 43.

TO: Major Albert G. Chiriquis, Security Court.

1. Record of trial in subject cases has been handed as through Major Bolívar and has been duly forwarded to the C.I.C. for examination and file. I have the following comments on same, not in the spirit of constructive criticism as the records are in such better shape than most that come through, but with the view towards ultimate perfection.

2. With regard to (a):

(a) When you don't get up of record put in "agreed-upon" age.....

(b) Charge sheet. It is not necessary to repeat the wording of the proclamation every morning forth the minutes, articles and paragraphs, follow that however with the particulars in consistent this manner "In that the accused on the day of..... was one of a crowd which advanced upon the home of the Volante and with loud shouts demanded etc".

(c) There is nothing in your synopsis of evidence for the prosecution in support of this first charge. Such synopsis should be as to the particulars testified to, not in conclusions which you reached, such as; "In Mario Vinicio former Volante, even testified that at the time and place stated accused was seen by him to look on persons to ^{to} kill him and went to house of Volante and shouted ~~etc~~ etc".

(d) When in Exhibit is not translated, but is recorded as evidence, the list of it should be stated accurately in this manner; "Exhibit I was received in evidence and consists of the statement of the persons whose names are signed, generally corroborating the testimony of witness Di Maria".

(e) Where a fine or alternative jail sentence is imposed it is well to have the record state, "fine paid 16/12/43".

3. With regard to (a):

(a) Same as under (a).

(b) Sentence was such too light, most Italians would gladly take a fine of 1000 Lira to acquire a pair of shoes. In such cases the fine should not be less than 10000 Lira or three months.

4. Simplified form are in the press and should reach you in about ten days. In the meantime originalization on your initiative in taking action and getting the records to us.

1. Record of trial in subject case has been judged as through Major Belmont and has been duly forwarded to the C.I.O. for examination and file. I have the following comments on same, not in the spirit of destructive criticism as the records are as much better shape than most that come through, but with the view towards ultimate perfection.

2. With regard to (a):

(a) When you don't get up of accused put in "aggravated" etc.....

(b) Charge Sheet. It is not necessary to repeat the wording of the proclamation after setting forth the facts, articles and paragraphs, follow that however with the particulars in summary this summary "in this the accused on the..... day..... was one of a crowd which advanced upon the home of the Podesta and with loud shouts demanded etc".

(c) There is nothing in your synopsis of evidence for the prosecution in support of this first charge. Such synopses should be as to the particulars testified to, not in conclusions which you reached, such as; "Ed Mario Vincenzo stated Podesta, even testified that at the time and place stated accused was seen by him to bid him to person. to follow him and went to home of Podesta and shouted etc".

(d) Was an Exhibit in not translated, but is recorded as evidence, the first of it should be stated exactly in this manner; "Exhibit I was received in evidence and consists of the statement of the person whose name are signed, generally corroborating the testimony of witness Ed Mario".

(e) Where a fine or alternative jail sentence is imposed it is well to have the record state, "This paid 16/17/43".

3. With regard to (b):

(a) None can be under (a)

(b) Sentences was much too light, most Italian would gladly take a fine of 1000 Lire to acquire a pair of shoes. In such cases the fine should not be less than 10000 Lire or three months.

4. Simplified forms are in the press and should reach you in about ten days. In the meanwhile suggestions on your initiative in taking notes and getting the records to us.

Copy to: C.I.O.

WILLIAM J. BROWN, Major,
C.I.O. 816. 5 Army
for C.I.O. 816. 8th Army.

Subject. Cases tried at Carunchio
To. C.L.O. A.M.G. 8th Column

Quota - legal 7

150

Herewith reports on 2 cases tried at Carunchio by Major Blinkscates.

In case 1, from what Major Blinkscates tells me, I do not consider a conviction for intimidation was justified; - the accused appears only to have canvassed for votes; & the third charge on which he was convicted consists of getting himself elected Podestà, as a result of his canvassing, when Major Blinkscates' order was that the voting was to be confined to 2 other candidates. However he undoubtedly organised an unauthorised demonstration outside the house of the Podestà, according to Major Blinkscates, but that does not appear from the note of the case!

I have explained to Major Blinkscates that the Summary Court Record Sheet should be kept, & how the Form 3 should be used, when it is required,

Vasto
18 Dec. 43

G. M. Wellsford
Major
Legal Officer - Chief

C.L.O.

18/12
RM

Subject:- Box No. 8 - Case of Bettore Virgilio

143

AGC HQ.,
15 Army Group.
C.M.F.

Ref. AGC/209/143 —
22 December 43.

To:- C.L.O.,
A.M.G., 5th Army.

The subject form is herewith returned to you for the disposal of the R.C.L.O. Region III, in accordance with the terms of Proclamation 14.

BD/RS.

H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

54

AMG/208)

142

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
19 December 1943

Subject: Landi and Iorio

To : Chief Legal Officer AMG Hq., 15th Army Group,
APO 777, CMF.

1. Referring further to my letters of 3 and 16 November relating to petitions to review submitted on behalf of the above named, there are forwarded herewith papers relating thereto which were only recently forwarded by the court that tried these two individuals.

J.V.M. Shields
for J.V.M. Shields, Lt. Col.,
Senior Legal Officer
AMG, 5th Army

Subject:- Petitions for Review.

Hq.,
15 Army Group,
G.M.F.

Ref. AG/208/141.
21 December 43.

S.L.O.,
AG, 5 Army.

Petition for Review and accompanying proceedings are returned to you for disposal to Region III for review by the RGAO:-

Marchese Luigi and Petrucci Domenico,
(Ref your 3/6071/L, 13 Dec 43)

In connection with this case I think that the reviewing authority should not feel too much hesitation in sustaining the finding that an attempt to disobey the price order was proved. Regardless of the niceties of Anglo-American law, we must do what we legitimately can to see that our system of price controls is effective. If an offer to sell at a higher price than that authorized is proved by competent evidence to have been seriously made by a prospective seller, regularly dealing in the goods to be sold, I should have no doubt but that a punishable offense has been committed.

2. Petition for Review and accompanying proceedings are returned as this Headquarters has no jurisdiction in the Province of Salerno:-

Terlo Amato and Landi Adolfo,
(ref your 3/6071/L, 16 Dec 43 and 3/6071/L,
(19 Dec 43.)
Radullo Antonio, et al,
(ref your 3/6071/L, 17 Dec 43)

3. Petition for Review in the case of Russo Giovanni is returned as the findings and sentence were confirmed on an earlier petition and no new grounds are stated in the present petition. (Reference your 3/6071/L, 13 Dec 43 and our AG/209/104, 16 Dec 43.)

(Handwritten signature)

Mark Don. Howe, Major, AUS.,
Chief Legal Officer.

BD/MS.

Subject: - Allied Military Courts - Petitions for Review. 130

AMC HQ.,
15 Army Group,
C.M.F.

Ref. AMG/308/440
21 December 45.

S.L.O.,
HQ. AMC, 5 AMG.

Reference your letter 3/6071/L of 9 December, the record of the case of Esposito Raffaele is returned herewith to you for review for R.S.A.C., Region 5.

2. The case of Ghrella Armando has been reviewed and the finding and the sentence has been confirmed. The record is returned herewith.

HEB/ES.


H.E. HEST, J.
Lt. Colonel,
Chief legal officer.

56

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
17 December, 1943

Subject: Petitions to Review

To : Chief Legal Officer, AMG, HQ, 15 Army Group,
APO 777, C.M.F.

1. There are forwarded herewith petitions to review submitted on behalf of Fedullo Antonio, Rinaldo Gasparo, Angelo Scola, Francesco De Vita, Giuseppe Cammarota, Gaetano Gnasso, and Fiorenzo Manzella and the record of the proceedings before a General Military court relating to their trial, and other accompanying papers.

2. The evidence appears sufficient to convict (at least of an offense of wrongful possession, if not plunder), and the sentences (except with respect to hard labor) appear to be within the limits of reasonable discretion by the court, except as to Antonio Fedullo. The only evidence on behalf of the prosecution against Fedullo was that given by the Carabinieri who testified that he went to Fedullo's house in his absence and told his brother that a report had been turned in stating that Fedullo had stolen a radio from the plane, and that later Fedullo went to the Carabinieri station and handed in a radio set. He further testified that he had found some parts of the plane control set in Fedullo's house; and that Fedullo had told him later that his servant had picked up the radio and carried part of it to his home, and that when he, Fedullo, got news of the search and of the acts of his servant he brought the radio to the Carabinieri station. The search of Fedullo's house was made on Oct. 5th and restitution was made on Oct. 6th. Thus there is no compelling evidence even of wrongful possession of the radio, only wrongful possession of some parts of the plane control set. On the case for the defense, Fedullo's servant, Trani Armando (14 years of age) testified that he tried to take the radio for him-

Subject: Petitions to Review

To : Chief Legal Officer, AMG, HQ, 15 Army Group,
APO 777, C.M.F.

1. There are forwarded herewith petitions to review submitted on behalf of Fedullo Antonio, Rinaldo Gasparo, Angelo Scola, Francesco De Vita, Giuseppe Cammarota, Gaetano Gnasso, and Fiorenzo Manzella and the record of the proceedings before a General Military court relating to their trial, and other accompanying papers.

2. The evidence appears sufficient to convict (at least of an offense of wrongful possession, if not plunder), and the sentences (except with respect to hard labor) appear to be within the limits of reasonable discretion by the court, except as to Antonio Fedullo. The only evidence on behalf of the prosecution against Fedullo was that given by the Carabinieri who testified that he went to Fedullo's house in his absence and told his brother that a report had been turned in stating that Fedullo had stolen a radio from the plane, and that later Fedullo went to the Carabinieri station and handed in a radio set. He further testified that he had found some parts of the plane control set in Fedullo's house; and that Fedullo had told him later that his servant had picked up the radio and carried part of it to his home, and that when he, Fedullo, got news of the search and of the acts of his servant he brought the radio to the Carabinieri station. The search of Fedullo's house was made on Oct. 5th and restitution was made on Oct. 6th. Thus there is no compelling evidence even of wrongful possession of the radio, only wrongful possession of some parts of the plane control set. On the case for the defense, Fedullo's servant, Trani Armando (14 years of age), testified that he tried to take the radio for himself and that later he told Fedullo until two or three days after the trial. The court overruled a motion to admit in evidence a previous statement of Trani; and ordered that he be held on a charge of perjury.

3. Even if it be concluded that the evidence was sufficient to convict of anything more than wrongful possession of certain parts of the plane control set (with respect to the first charge of plunder), there is

1219

no evidence in the record of advising or assisting in the plunder (other than possession), and for some reason indicates that Fedullo alone of the ten accused was guilty of both charges. The sentence was imposed, it must be assumed, in respect of both findings.

4. Even if it be concluded that the conviction of Fedullo is proper, the sentence of 3 years imprisonment and 10,000 lire fine is disproportionate to the offense committed, especially when compared with the sentences imposed on the other accused, including a sentence of only two years imprisonment and 10,000 lire fine on Riboldi and Cammarota who had possession of machine guns. In addition the petition for review discloses (although the record does not) that Fedullo is only 17 years of age.

5. Taking everything into consideration, it is recommended that the conviction of Fedullo in respect to charge 2 should be quashed and that he should only be convicted of possession of the plane control set and a sentence proportionate to such an offense imposed. In view of his age this might properly be a sentence of detention in an institution for juveniles.

6. With regard to the accused Cammarota there was no conclusive evidence to show that he was ever in possession of a machine gun taken from the plane. I therefore recommend that the conviction of this accused quoad possession of that weapon be quashed and his sentence reduced accordingly.

7. In considering this whole case it will be necessary to bear in mind that Salerno is no longer under the administration of Region III. I mention that because of the suggestion which has been canvassed in this office that the appropriate order in respect to the charges against Fedullo and Cammarota should be a new trial. With Salerno out of this region and passing to A.C.C. such an order might cause embarrassing complications.

8. There are also forwarded records of the proceedings on Form 8 before a Superior Military Court sitting in Naples relating to charge against Dettole Virgilio and Stanzo Carlo. The evidence appears to be sufficient to convict and the sentences imposed within the exercise of reasonable discretion.

1-220

imposed on the other accused, including a sentence of only two years imprisonment and 10,000 lire fine on Riboldi and Cammarota who had possession of machine guns. In addition the petition for review discloses (although the record does not) that Fedullo is only 17 years of age.

5. Taking everything into consideration, it is recommended that the conviction of Fedullo in respect to charge 2 should be quashed and that he should only be convicted of possession of the plane control set and a sentence proportionate to such an offence imposed. In view of his age this might properly be a sentence of detention in an institution for juveniles.

6. With regard to the accused Cammarota there was no conclusive evidence to show that he was ever in possession of a machine gun taken from the plane. I therefore recommend that the conviction of this accused quad possession of that weapon be quashed and his sentence reduced accordingly.

7. In considering this whole case it will be necessary to bear in mind that Salerno is no longer under the administration of Region VII. I mention that because of the suggestion which has been canvassed in this office that the appropriate order in respect to the charges against Fedullo and Cammarota should be a new trial. With Salerno out of this region and passing to A.C.C. such an order might cause embarrassing complications.

8. There are also forwarded records of the proceedings on Form 8 before a Superior Military Court sitting in Naples relating to charge against Dettore Virgilio and Stanzo Carlo. The evidence appears to be sufficient to convict and the sentences imposed within the exercise of reasonable discretion.

Incl. Cases

J. V. M. Shields
J.V.M. Shields Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

137

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
16 December, 1943

Subject: Petition to Review.

To : Chief Legal Officer, A.M.G., HQ 15 Army Group, C.M.F.

1. There is forwarded a petition to review on behalf of Iorio Amedeo and accompanying papers. The record of the proceedings before the Superior Military Court has already been forwarded to you with my letter of 3 December (Amgot 3/6071/L), and the petition to review submitted on behalf of Adolfo Iendi, who was tried at the same time as Iorio.

2. As the petition to review on behalf of Iorio states, Mazzotti and Buonomo were subsequently tried on 15 November by a Summary Military Court for theft of Allied Property, found guilty, after a plea of not guilty, and given a sentence of "six months suspended". This record is also forwarded for information.

Henry L. Shields
Capt JAGD.
for J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
9 December, 1943

Subject: Petitions to Review.

To : Chief Legal Officer, AMG, HQ., 15 Army Group, C.M.F.

1. There is forwarded herewith petitions to review the conviction and sentence of Esposito Raffaele, together with the record of the proceedings on Form 8. This again raises the question of policy with regard to the question of wrongful possession of American cigarettes, previously referred to in my letter of 3 December 1943 (Amgot 3/6071/L). The Judge Advocate of the 5th Army in response to my letter of inquiry has advised that at the present time there is no regulation or order prohibiting the resale or gift of American cigarettes purchased from a P.X. This makes the questions posed in my letter of 3rd December even more acute.

2. There is also forwarded the application for review submitted on behalf of Cirella Armando and the record of the proceedings on Form 8. In view of the age of the accused (16 and 7/12ths years) and in view of the absence of any previous record, the sentence may well be commuted ~~to~~ to one of being placed on probation, or at least of sentence in an institution or school for juveniles until such time only as the school may decide that he will refrain from further delinquency and is ready for release.

J. M. Shields
J.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

Incl. 2

SUBJECT:-

Allied Military Court - CERIGNOLA
Case of Bonito, Umberto.

H.Q., A.E.C.,
15 Army Group,
C.E.F.

S.C.A.O.,
Region IV.

AWG/208/
18th December 1943

I have before me, for review, the record of trial by Summary Court, held at Cerignola, of Bonito Umberto, who was charged with violation of Proclamation No. 2, para 44, in that he disobeyed the order of S.A.O. and advised (incited?) the local city picture show employees to disobedience; and sentenced on 17th November 1943 to a fine of L.2000 and a term of six months imprisonment. An order suspending the sentence of imprisonment was made on condition that the accused left the province.

2. I have quashed finding and sentence. The accused may have failed in his duty as Commissario Prefettizio, but this is not enough to convict him of an offence against the Proclamation. Moreover, the condition governing the suspension of sentence is of doubtful legality.

3. If the man failed in his duty as Commissario Prefettizio then the Provincial S.C.A.O. can remove him from office or transfer him elsewhere, if his presence is undesirable in Cerignola.

4. The record of this summary case is most inadequate: it is written in pencil; it is unsigned; the sentence reads "Paid a fine of 2000 L....." and not consistent with the dignity of an Allied Military Court.

5. You should ask Liaison Officer A.O.O. Bari when informing Bonito of the success of his appeal to instruct him to report at your H.Q., when you can deal with him as you think fit in accordance with paragraph 3.

MBL/SCH

M.S. / L
Brigadier,
Deputy Chief Civil Affairs Officer.

15 Army Group,
C.M.F.

A 14/208/
18th December 1943

R.C.A.O.,
Region IV.

I have before me, for review, the record of trial by Summary Court, held at Cerignola, of Benito Umberto, who was charged with violation of Proclamation No. 2, Para 44, in that he disobeyed the order of C.A.O. and advised (incited?) the local city picture show employees to disobedience; and sentenced on 17th November 1943 to a fine of L.2000 and a term of six months imprisonment. An order suspending the sentence of imprisonment was made on condition that the accused left the province.

2. I have quashed finding and sentence. The accused may have failed in his duty as Commissario Prefettizio, but this is not enough to convict him of an offence against the Proclamation. Moreover, the condition governing the suspension of sentence is of doubtful legality.

3. If the man failed in his duty as Commissario Prefettizio then the Provincial S.C.A.O. can remove him from office or transfer him elsewhere, if his presence is undesirable in Cerignola.

4. The record of this summary case is most inadequate: it is written in pencil; it is unsigned; the sentence reads "Paid a fine of 2000 L....." and not consistent with the dignity of an Allied Military Court.

5. You should ask Liaison Officer A.C.O. Pari when informing Bonito of the success of his appeal to instruct him to report at your H.Q., when you can deal with him as you think fit in accordance with paragraph 3.

MSL/3CH

MSL/3CH
Brigadier,
Deputy Chief Civil Affairs Officer.

~~When informed~~

5. You should ask Liaison Officer ACE Bori when informing Benito of the success of his appeal, to instruct him to report ~~at~~ your HQ, when you can deal with him as you think fit in accordance with paragraph 3.

SUBJECT:-

Allied Military Court - CERIGNOLA
Case of Bonito, Umberto.

R.C.A.O.,
Region IV.

H.Q., A.M.C.,
15 Army Group,
G.M.F.

AMG/209/

15th December 1943

I have before me, for review, the record of trial by Summary Court, held at Cerignola, of Bonito Umberto, who was charged with violation of Proclamation No. 2, Para 44 in that he disobeyed the order of C.A.O. and advised (incited) the local city picture show employees to disobedience; and sentenced on 17th November 43 to a fine of L.2000 and a term of six months imprisonment. An order suspending the sentence of imprisonment was made on condition that the accused left the province.

2. I have quashed finding and sentence. The accused may have failed in his duty as Commissario Prefettizio, but this is not enough to convict him of an offence against the proclamation. Moreover, the condition governing the suspension of sentence is of doubtful legality.

3. If the man failed in his duty as Commissario Prefettizio then the Provincial S.C.A.O. can remove him from office or transfer him elsewhere, if his presence is undesirable in Cerignola.

4. The record of this summary case is not inadequate: it is written in pencil; it is unsigned; the sentence reads "Paid a fine of 2000 L....." and not consistent with the dignity of an Allied Military Court.

MSL/SON

M. S. Lusk.
Brigadier,
D.C.C.A.O.

133

D.C.E.A.O

Will you add a direction to R.C.A.O. as to whether Bonito may be allowed back into the Province? The quashing of the sentence will permit this subject to R.C.A.O. issuing a pass.

2. The petition came through Mrs. Bonito and A.C.E. I suggest that ~~we~~^{they} inform Bonito through Ace that the ^{finding and} sentence have been quashed on legal grounds but that you do not approve of his conduct which gave rise to the case. Do you approve?

16 Dec 43.

H. J. [unclear] W. G. 1
C.E.O.

1. Deny

2. R.C.A.O. will inform Bonito ~~thru~~ ^{thru} L.O. 43

Acc. Boni.

W. [unclear] 17/24/43

Subject: - Allied Military Courts
Petition for Review - SAVARISE.

120+

AMG 13.,
13 Army Group,
C.I.F.

Ref. 36/28/10
19 December 43.

S. L. D.,
Hq AMG, 5 Army.

Reference your letter 3/6071/1 of 13 December,
the attached proceedings are returned to you for disposal
to Region III and review by R.C.A.C.

48

H. S. BOWEN,
Lt. Colonel,
Chief Legal Officer.

H.R./SS.

47

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

file 208-119
Amgot 3/6071/L
13 December, 1943

Subject: Petitions to Review.

To : Chief Legal Officer, HQ., AMG, 15 Army Group,
A.P.O. 777, C.M.F.

1. There is forwarded herewith a petition to review submitted on behalf of Agostino Savarese. After a plea of guilty to a charge of stealing one can of "C" rations, property of the Allied Forces, Lt. Ziff, sitting as a Summary Military Court in the port area of Naples sentenced Savarese to 60 days imprisonment and a fine of 500 lire. I recommend that the sentence be reduced.

Henry L. Glavin
per J.V.M. Shield, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army

Incl. 1

48

Subject: Allied Military Courts - Petitions for Review.

Case of CACILLINI - Benevento.

ADD Rec.
15 Army Group,
D.M.C.

Ref. No. 108/22
19 December 43.

S.L.C.,
Hq. A.M.C., 5 Army.

Herewith record of above case together with petition
for review by attached.

2. The D.M.C.A.C. has, on review confirmed the finding
but reduced the sentence to 7 days imprisonment - without fine.

3. Please inform command.

HHS/RS.

[Signature]
Lt. Colonel,
Chief Legal Officer.

Subject:-

Allied Military Court - Naples.

Case of CORROLA.

117
ADM HQ.,

15 Army Group,
C.M.F.

Ref. AMG/208/214
19 December 43.

S.I.O.,

15 Army.

210
Reference your letter 3/5071/1. of 14 Dec, will
you submit this case either to D.C.C.O. who is in Naples
or to R.C.C.O., Region 3, for necessary action.

WBR/ES.


H.S. ROAN,
Lt. Colonel,
Chief Legal Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/5071/L
14 December 1943.

Subject: Remission of fine of COFFOLA Francesco

To : C.L.O., AMG. H.Q., 15th Army Group,
A.P.O. 77 C.M.F.

1. In the Summary Court of Naples which has jurisdiction over curfew offences COFFOLA Francesco was on 20th November 1943 found guilty of circulating in the streets of Naples at 0350 contrary to Proclamation 2 Article II Section 24 and a fine of 200 lire was imposed upon him, or in default of payment of the fine 2 days imprisonment.

2. The Labour Control Officer at Naples Port has now informed me that this accused was wrongfully evicted from the Port area and was thereafter arrested and imprisoned for a breach of the curfew regulations.

3. In the circumstances in reviewing this case ex officio it is recommended that the C.C.A.O. should remit the fine.

J. M. Shields
43
J. M. Shields, Lt. Col.,
Senior Legal Officer,
AMG 5th Army.

Subject: - Allied Military Courts - Petitions for Review

Case of PELLEGRINO - Benevento.

ANG HQ.,
15 Army Group,
C.I.F.

Ref. 133/203/159
19 December 43.

S.L.O.,
HQ, 15 Army Group.

Reference your letter 5/6071/1 of 10 Dec, the D.C.G.A.O. has considered the petition of the above accused and has remitted the fine of 1,000 lire.

2. The D.C.G.A.O. is concerned as to the disposition of food confiscated in these cases. He would prefer that only excess food should be confiscated in a case and all confiscated food should be delivered to the Alimentazioni. A few turkeys were involved in a recent case, and the D.C.G.A.O. wanted to know who had eaten them!

RMG/133.

Rd
H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

114c

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
10 December, 1943.

Subject: Petition to Review.

To : Chief Legal Officer, HQ., A.M.G., 15 Army Group,
C.M.F.

1. There is forwarded herewith a petition to review the conviction and sentence of Abbate Pellegrino. The accused pleaded guilty to the charge of illegally transporting grain, which constitutes a violation of the Italian hoarding laws. The facts disclose that he was found to be in possession of 431 kg. of wheat, 63 kg. of oats, 33 kg. of salt and 35 kg. of oil. The Court imposed a sentence of 30 days imprisonment and a fine of 1000 lire.

2. The petition states that the accused is unable to pay the fine. The Court is therefore about to impose an additional term of imprisonment in default of payment.

Henry L. Shields
Capt. AGO.
for V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

41

108-

J.E.E.A.O.

114
File 208

Proof of Intent in Proclamations Offences

Intent, in both American and British law, only requires proof to establish guilt in certain cases, e.g. murder, arson, larceny etc. In statutory offences, such as possessing arms without a licence, exceeding the speed limit, selling milk deficient in fat and the like, intent does not enter into the question of guilt, although it may enter into the quantum of the punishment. Italian law on intent is very complicated and, as I understand it, intent may affect either guilt or sentence.

2. In the law of military government, as expressed in the Proclamations, there is no rule of law outside the Proclamations themselves to bind the military courts. Thus in drafting Proclamation 2, care was taken in connection with certain offences to make intent a necessary ingredient of the offence and in other offences to omit intent. For instance, under section 7 of Article 1 of Proclamation 2 it is an offence "wilfully" to mislead any troops of the armed forces. On the

other hand, under section 5 of the same Article it is an ¹¹³ offence to be in possession of firearms after the date fixed by public notice that they shall be turned in.

3. So far as the status of co-belligerency is concerned, I do not think the happening of that status should affect the type of offence in which intent should be proved. As I have mentioned above, the prosecutions do not have to prove intent in Britain or America in cases of illegal possession of arms, even in peacetime. It is more a matter of the nature of the offence than its circumstances.

4. Since the question of firearms has come up, I think it is worthy of mention that this subject caused such lively apprehensions in Sicily that house-to-house drives had to be instituted in some parts to discover concealed arms. My own view is that the state of war which exists makes it imperative that arms should be turned in and that deterrent sentences must be imposed on the lazy as well as on the intentional concealers, although not, of course, similar sentences.

18 Dec 43.
Thank you. I agree with you for 4
JH (18/12/43)

W. J. M. 10/6/1
C.L.O.

Sum + 15/12

Subject: Allied Military Courts - Salerno.
Case of ADOLFO LANDI.

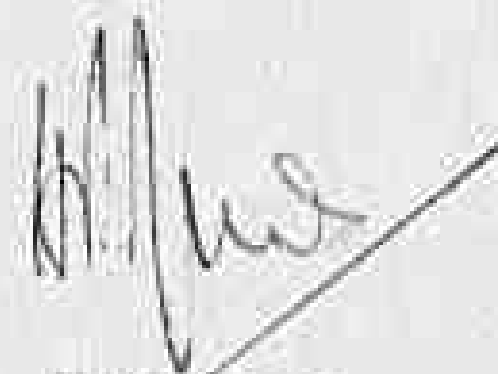
AMS HQ.,
15 Army Group,
C.M.F.

Ref. AMS/208/111.
18 December 43.

Senior Legal Officer,
HQ. A.M.G.
5 Army.

Reference your 3/6071/L of 3 December 43 and your signal PMS -2567 of 16 December, the proceedings in the above case are returned to you as this HQ has no jurisdiction in the Province of Salerno.

2. I assert that Region III are not now concerning themselves with Salerno and that this province is now administered separately or as part of Region 2. Can you let me know the position?



H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

HGR/ES.

Subject:- United Military Courts.
Case of PERHATE.

110
Jde
JAG Br.,
15 Army Group,
C.S.F.

Ref. A-11/200/110
16 December 43.

Senior Legal Officer.,
HQ. A.M.C., Army.

The petition and record in the above case have been reviewed by the Deputy Chief Civil Affairs Officer and the petition has been dismissed and the finding and sentence of the Court confirmed.

2. Please inform the accused.

WAR/103.

H. E. ROWE,
Lt. Colonel,
Chief Legal Officer.

RESTRICTED

BRITELTYPE MESSAGE

IN

17 DEC 1943

TOLIO NO 06084

16 DEC 43

FROM:

PERCE (HUBB)

1 :

15 ARMY GP FOR ANG FOR ROWE

ORG NO:

FBS-2567

TOO 1426A/16

TOR 0210A/17

SEE YOUR SIGNAL FA/91 OF 13 DECEMBER.

ALSO FIVE ARMY (TO CG 15 ARMY GROUP FOR ANG FOR ROWE. COURT WAS HELD AT SALERNO.

AMZOT

4 ACTION

SEC 0345A/17

TT 0640A/17 IU

36

Subject:- United Military Courts - Petition for Review.

AMT. Hq.,
15 Army Group,
C.S.D.

Ref: AMT/203/10
17 December 44.

S.L.O.,
Hq. AMT, 15 Army.

Reference your letters 3/0971/2 of 10 Dec and 12 Dec respectively, the proceedings in the cases of 3072/11112 and 105/11112 are returned herewith, and should be transmitted to R.C.C.M., Region 3, for Review by S.C.C.O. under delegated authority of R. Sec, which has been forwarded to Region 3.

2. The conviction of 3072/11112 should be reversed if his plea that he could legally charge a higher price for washed coal is correct.

HER/23.

H. J. BOWEN,
Lt. Colonel,
Chief Legal Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
10 December, 1943

Subject: Petition to Review

To : Chief Legal Officer, AMG. HQ., 15 Army Group C.M.F.

1. There is forwarded herewith a petition to review submitted on behalf of Alfonso Santaniello and the record of the proceedings on Form 8. While the case for prosecution is based on hearsay evidence only, the record does show an admission on the part of the accused, and the sentence appears to be within the bounds of reason.

J.V.M. Shields
for J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

Incl: 1

COPY.

Subject: - Allied Military Courts: - Petitions For Review. *96*

Hq. AIG.,
15 Army Group,
C.M.P.

Ref. AIG/208/54.
30 November 43.

Senior Legal Officer,
Hq. AIG,
5 Army.

*Copy to
2000 64*

Reference your 3/6071/6 of 14 Nov, the C.C.A.O. has considered the petitions of Bruno and Uglieno and has made the following orders on Review.

2. The sentence against Bruno is reduced to 30 days imprisonment and the fine is remitted.
3. The sentence against Uglieno is confirmed.

(Signed) H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

HER/ES.

- 2 -

Senior Legal Officer,
Hq. AIG, 5 Army.

17 Dec 43.

The above copy letter is forwarded to you ref your 3/6071/1 of 10 December 43.

HER
H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

HER/ES.

33

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
10 December, 1943

Subject: Petitions to Review

To : Chief Legal Officer, HQ. A.M.G., 15 Army
Group.

With further reference to my letters of even number of 14th and 25th November 1943 in regard to the petition to review submitted on behalf of Bruno Giovanni I should be grateful to know of the decision thereon. I wish to point out that the petition of Ascione Giro who was arrested at the same time as Giovanni and who received a similar sentence was, upon my recommendation, granted to the extent of reducing the sentence of 60 days imprisonment and a fine of 5000 lire to 30 days imprisonment as set forth in your letter of 30 November (AMG/206/55).

J. V. M. Shields
J.V.M. Shields Lt. Col., 32
Senior Legal Officer,
A.M.G., 5th Army.

Copy of letter at p.

sent - 560

TH

7/2

95A 104
Subject:- United Military Courts - Petitions for Review.
Cases of Pianese and Russo.

AMG HQ.,
15 Army Group,
C.M.F.

AMG/209/104
16 December 43.

S.L.O.,
Hq.AMG. 5 Army.

Reference your letter 3/6071/L of 2 December, herewith record and petition of Russo Giovanni which has been reviewed. The finding and sentence has been confirmed.

2. The finding and sentence in the case of Pianese has been quashed in accordance with your recommendations.

HER/MS.

46
H.B. ROWE,
Lt. Colonel,
Chief Legal Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
2 December, 1943

Subject : Petitions to Review.

To : Chief Legal Officer, Hq., A.M.G., 15 Army
Group, C.M.F.

1. There are forwarded herewith petitions to review submitted on behalf of Pianese Antonio and Russo Giovanni.

2. Pianese pleaded guilty to a charge of selling beer at an excessive price in contravention of Art. II of Proclamation 8, which prohibits a sale in excess of the maximum price fixed by Italian Law at the time of the occupation. There was no maximum legal price fixed for Italian beer, as distinguished from German, either by Italian Law or A.M.G. price list. As this accused was sentenced for an act which was not in fact an offence the finding and sentence of the court should be quashed. This case appeared to be an appropriate one for release on bail pending your decision on the petition to review, and an order was made today to this effect releasing Pianese from jail. The judge has been informed of his error.

3. Russo Giovanni pleaded not guilty to a charge of stealing property of the Allied Forces. The Form 8, which is forwarded herewith, states that the charge is Art. 1, Proclamation 8, but in fact, the charge was amended to meet the facts of the case and the accused was tried on the amended charge of contravening Sect. 27 of Art. II of Proclamation 2.

Henry L. Shields
for J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G. 5th Army.

Incl. 2

ROUTINE CASE.

208

90

To: AMCS for AMG for HERS

From: PILOT from AMG

Orig'n No. PA 4461 13 Dec

For Shields (.) appeal of Jendi against conviction Superior
Military Court (.) See your letter 3/672/1 of 3 Dec (.)
where was Court held

81

Degree of priority. ROUTINE.

This message may be sent
in clear.

Y.C.M.
Y.H.I.
Y.U.S.

.....Lt.Col.

No Colonel available.

29

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
3 December, 1943.

Subject: Petition to Review.

To : Chief Legal Officer, HQ. A.M.G., 15 Army Group, C.M.F.

1. There is forwarded herewith a petition to review on behalf of Adolfo Landi, and also the record of the proceedings before the Superior Military Court by which he and another (Amedeo Iorio) were tried.
2. There were two charges: first, theft of petrol and oil belonging to the Allied Forces and, secondly, unlawful possession of such property with knowledge that the same belonged to the Allied Forces.
3. The only evidence submitted in the case for the prosecution was the finding in Landi's house and on his property of sixteen 5-gallon drums of oil and 50 gallons of petrol; and the finding on certain farm property owned by Iorio (but leased to tenants) of about 236 gallons of petrol, part of which, it was established by hearsay evidence, Iorio had personally brought to such property.
4. In addition the case for the defense established that Iorio had actually taken petrol from the premises used as a supply dump, on the assumption that it was German petrol; and that Landi, after a football game with British soldiers in which he participated, had, at about 1230 in the day while British players were still present, picked up some petrol cans on the field to see if they were full.

5. However, neither the case for prosecution nor for the defense established that there was any relationship between Iorio and Landi, or that Landi had any knowledge whatsoever that oil and petrol had been deposited on his property. On the contrary, two witnesses (laborers on

To : Chief Legal Officer, HQ. A.M.G., 15 Army Group, C.M.F.

1. There is forwarded herewith a petition to review on behalf of Adolfo Landi, and also the record of the proceedings before the Superior Military Court by which he and another (Amedeo Iorio) were tried.

2. There were two charges: first, theft of petrol and oil belonging to the Allied Forces and, secondly, unlawful possession of such property with knowledge that the same belonged to the Allied Forces.

3. The only evidence submitted in the case for the prosecution was the finding in Landi's house and on his property of sixteen 5-gallon drums of oil and 50 gallons of petrol; and the finding on certain farm property owned by Iorio (but leased to tenants) of about 236 gallons of petrol, part of which, it was established by hearsay evidence, Iorio had personally brought to such property.

4. In addition the case for the defense established that Iorio had actually taken petrol from the premises used as a supply dump, on the assumption that it was German petrol; and that Landi, after a football game with British soldiers in which he participated, had, at about 1230 in the day while British players were still present, picked up some petrol cans on the field to see if they were full.

5. However, neither the case for prosecution nor for the defense established that there was any relationship between Iorio and Landi, or that Landi had any knowledge whatsoever that oil and petrol had been deposited on his property. On the contrary, two witnesses (laborers on Landi's farm) testified that an individual named Rago had brought cans to Landi's place in the latter's absence with the request that they be kept there until the next day, and that he (Landi) had no knowledge of this. One testified that Rago came with the cans at 4 P.M. and that the MP's came at 6 P.M. on the same day. Thus the undisputed testimony is that the cans were on his property for only two hours.

6. On this record, and bearing in mind that there is nothing to connect Landi with Rago, I do not believe it

is reasonable to find that he had knowledge that the petrol and oil were on his land. The record does not state how many gallons were contained in the cans that Rago brought, but assuming that some quantity was on the premises more than two hours, there is nothing to indicate that Landi brought it there or knew it was there. Landi was but one of several brothers living in his mother's house. Consequently, though a finding of wrongful possession may be technically sound, it would seem a case for a nominal sentence only.

7. As to Iorio, while on his own admissions a conviction of theft is justified (since German petrol became the property of the Allied Forces), a sentence of two years may be a bit severe.

Henry H. Shields
Capt. T. A. G. P.
for V. M. Shields, Lt. Col.,
Senior Legal Officer,
A. M. G., 5th Army.

Subject:- All Military Courts - Petitions to Review. 869

AMC HQ.,
15 Army Group,
C.M.F.

AMC/206/84
13 December 43.

S.L.O.,
HQ. AMC., 5th Army.

Herewith records and petitions in the following cases,
all of which have been reviewed :-

- (a) Francesco Esposito.
- (b) Bassano Pavani.
- (c) Romano Genaro.
- (d) Giuseppe de Luca.

2. In case (a), the finding is confirmed and the sentence reduced to 2 months imprisonment without fine.

3. In case (b), the finding and sentence are confirmed.

4. In case (c), the finding and sentence are confirmed but the sentence in default of payment of fine is reduced to 3 months imprisonment.

5. In case (d), the finding is confirmed but the sentence is reduced to 2 months imprisonment.

6. Your letter 3/6071/L of 29 Nov refers.

HBY/RS.


H.E. ROWE,
Lt. Colonel 6
Chief Legal Officer.

Subject:- Allied Military Courts - Petitions Review. 88

AMC HQ.,
15 Army Group,
C.K.F.

Ref. AMC/208/88
13 December 43.

S.L.O.
HQ. AMG., 5th Army.

Herewith proceedings and petitions in the undermentioned cases which have been Reviewed, namely :-

- (a) Piccirillo Giuseppe.
- (b) Coppeta and Castaldi.

2. In case (a), the finding has been confirmed and the sentence reduced to 100 lire without imprisonment.

3. In case (b), the finding and sentence of 500 lire on the first charge for each accused is confirmed. The findings and sentences on the remaining charges are quashed. If the turkeys have been confiscated by the police they will be returned to the accused forthwith.

HER/ES.


H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

25

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
29 November, 1943

Subject : Petitions to Review.

To : Chief Legal Officer, A.M.G., 15 Army Group
C.M.F.

1. There are forwarded herewith petitions to review submitted on behalf of the following named persons.

2. Francesco Esposito pleaded guilty to the charge of larceny of two pairs of impregnate gloves, property of the Allied Forces, and was sentenced by 2nd Lieut. Saul Ziff sitting as a Summary Court in the Port area to imprisonment for 6 months and a 5000 lire fine. This may well be too severe considering the value of the property stolen. One month would seem to be sufficient.

3. Bessano Pavesi pleaded guilty to a charge of wrongful possession of property of the Allied Forces, to wit, - three 5 - gallon cans of gasoline, and was sentenced to one year's imprisonment by Capt. E.A. Baldwin. The Form 8 is enclosed herewith. This likewise may well be considered too severe a sentence in view of the punishment involved. Three months would seem to be more equitable.

4. Romano Gennaro, pleaded not guilty to a charge of wrongful possession of property of Allied Forces, - to wit, two 53 gallon drums, and was sentenced to one year's imprisonment and 50,000 lire fine (or in default of payment, 500 days imprisonment) thus raising the question of the competency of a Summary Court to impose such a sentence. The Form 8 is forwarded herewith. This likewise may well be considered too severe a sentence. Seven months would appear to be more equitable.

5. Giuseppe De Luca pleaded guilty to a charge of hoarding 22 kilos of pork, and was sentenced to 3 months

29 November, 1943

Subject : Petitions to Review.

To : Chief Legal Officer, A.M.G., 15 Army Group
C.M.F.

1. There are forwarded herewith petitions to review submitted on behalf of the following named persons.

2. Francesco Esposito pleaded guilty to the charge of larceny of two pairs of impregnate gloves, property of the Allied Forces, and was sentenced by 2nd Lieut. Saul Ziff sitting as a Summary Court in the Port area to imprisonment for 6 months and a 5000 lire fine. This may well be too severe considering the value of the property stolen. One month would seem to be sufficient.

3. Bassano Pavese pleaded guilty to a charge of wrongful possession of property of the Allied Forces, to wit, - three 5 - gallon cans of gasoline, and was sentenced to one year's imprisonment by Capt. E.A. Baldwin. The Form 8 is enclosed herewith. This likewise may well be considered too severe a sentence in view of the punishment involved. Three months would seem to be more equitable.

4. Romano Gennaro, pleaded not guilty to a charge of wrongful possession of property of Allied Forces, - to wit, two 53 gallon drums, and was sentenced to one year's imprisonment and 50,000 lire fine (or in default of payment, 500 days imprisonment) thus raising the question of the competency of a Summary Court to impose such a sentence. The Form 8 is forwarded herewith. This likewise may well be considered too severe a sentence. Seven months would appear to be more equitable.

5. Giuseppe De Luce pleaded guilty to a charge of hoarding 22 kilos of pork, and was sentenced to 3 months imprisonment. The Summary Courts notes are forwarded to you herewith.

Incl: 4.

Henry D. L. L. L.
for J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

Campebasso, 26 Nov. '43

SUBJECT: Superior Military Court- Larino- case of Raimondo Paolo 83
and others.

To: O.C., A.M.G., Hq. 8th Army

1.- Your CH/13/ 49 A of 22 Nov. '43 with A.M.G./208/A/I dated 18 Nov. '43 from A.M.G. Hq., 15 Army Group received.

2.- CAO Larino has been directed to inform accused of result of review.

3.- Amended commitment in case of MAZZALONGO Filomena has been executed and forwarded for delivery to jailer.

Edwin J. Mercer

EDWIN J. MERCER, MAJ. ORD
SENIOR LEGAL OFFICER, 8th ARMY

1 Copy for CLO, Hq., 15 Army Group.

*Forwarded.
H. H. H. H.
H. H. H. H.
S.C. A.V.*

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
3 December, 1943

Subject: Petitions to Review.

To : Chief Legal Officer, HQ., A.M.G., 15 Army Group, C.M.F.

1. There are forwarded herewith petitions to review on behalf of Castaldo Antonio and Coppella Angelo, Gagliardi Carmine, and Piccirillo Giuseppe.

2. Since the entire record of the proceedings (recorded on Forms 8) are available, they are forwarded herewith.

3. The record in the Gagliardi case, in which the plea was not guilty, raises the question of whether the mere possession of American brand cigarettes is sufficient proof of the offense of wrongful possession of Allied property under our proclamations. Though the regulations are not before me, it may be assumed that the gift or sale of American cigarettes received by American soldiers either as a part of their rations from the American Army or by purchase from a P.X. is unauthorized and that therefore the possession of the same by a civilian is wrongful within the meaning of the proclamation. But there are other sources of supply of American cigarettes, such as gifts through the mail and possibly supplies from boats (the status of which is not clear). Such cigarettes at least may be given away or sold by a soldier, without restriction.

4. Then there is the additional consideration that the civilian who accepts a gift of cigarettes or receives cigarettes in payment of services rendered (a very common practice) has no way of determining whether the soldier has or has not the authority to give or dispose of the cigarettes in the particular case. I would therefore, be grateful to have your views on the question:

(1) Whether persons found in possession of American cigarettes should be prosecuted, and if so whether

80

the sentence should be more than nominal;

(2) Whether it is necessary to prove that the cigarettes were the subject of a ration issue or of a purchase from a P.X., or whether our courts can proceed on the assumption that there is a presumption to that effect, which has the affect of throwing the burden of proof on the accused to prove the contrary. Whoever has the burden of proof can rarely, if ever, discharge it.

Henry L. Shields
Capt, J.A.G.P.
for J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

21

Subject: - Summary Military Court, Foggia Town,
Case of PAREGIO, Giuseppe.

AMC Hq.,
15 Army Group,
C.I.F.

Ref. AMC/200/78
7 December 43.

S.C.A.O.,
Foggia.

Herewith papers in above case.

2. The claim of the accused as to his circumstances should be investigated. To enable this to be done the necessary particulars should be sent to H. Region 3, Naples, with a request that the Welfare Officer make a report.
3. To save time, please write Region 3 direct and ask them to return papers and report to this Hq.

HEW/ES.

(R)
H.E. ROWE,
Lt. Colonel,
Chief Legal Officer.

Subject: - Petitions to Review, Allied Military Courts.

77
AMG-BA.,
15 Army Gp,
C.M.F.

Ref. AME/208/77.
7 December 43.

13
Senior Legal Officer,
HQ AMG, 5 Army.

Reference your 3/6071/L of 30 Nov, the Chief Civil Affairs Officer has considered the petition of Calceagno Francesco fu Anniello and has made an order reducing the sentence of the Court to 5,000 lire OR 2 months imprisonment in default of payment of fine. The order of confiscation made by the Court remains unaltered.

2. The accused should be informed by you of the result of his petition.

HER/ES.


H.M. ROWE,
Lt. Colonel,
Chief Legal Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
30 November, 1943.

Subject: Petition to Review.

To : Chief Legal Officer, A.M.G., 15 Army
Group, C.M.F.

1. There is forwarded herewith a petition to review submitted on behalf of Calcagno Francesco fu Aniello. He pleaded guilty to a charge of possessing in the street 100 kilograms of salt and 42 kilograms of leather, in contravention of the Italian rationing and hoarding laws. Capt. Henry L. Glenn sitting as a Summary Military Court in the City of Naples on or about 26 October, 1943, imposed a sentence of a fine of 5000 lire, 2 months imprisonment, and confiscation of property. The accused had been confined in jail prior to trial for 7 days.

J. V. M. Shields
J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G., 5th Army.

Incl. 1

*See endorsement
on Petition
J. V. M.*

Subject:-

Allied Military Courts - Petitions for Review.

10

AMC HQ.,
15 Army Group,
C.E.F.
308

Ref. AG/206/55
30 November 43.

Senior Legal Officer,
HQ AMG.,
5 Army.

Reference your 3/6059/L of 18 Nov, the C.C.A.C. has considered the petitions of Ascione, Gentile and Pellechia and has made the following orders on review.

2. The sentence against Ascione is reduced to 30 days imprisonment and the fine is remitted.
3. The sentence against Gentile is reduced to 3 months imprisonment and the fine is reduced to 10,000 lire.
4. The conviction and sentence of Pellechia is quashed and the C.C.A.C. directs that a re-trial be held when no doubt the accused will plead "not guilty".
5. Please instruct the officer who held the Court at Avellino to try Gentile and Pellechia that a Court must be satisfied that every accused understands the nature of the proceedings of the Court and what is being said to him.

H. B. ROSE

H. B. ROSE,
Lt. Colonel,
Chief Legal Officer.

HEB/ES.

17..

Subject:- Allied Military Courts - Petitions for Review.

69

SI AMG.,
15 Army Group,
C.M.F.

Ref. AG/200/64
30 November 43.

Senior Legal Officer,
15 AMG.,
5 Army.

Reference your 3/6071/6 of 14 Nov, the C.C.A.O. has considered the petitions of Bruno and Ugliano and has made the following orders on Review.

2. The sentence against Bruno is reduced to 30 days imprisonment and the fine is remitted.
3. The sentence against Ugliano is confirmed.

[Handwritten Signature]

H.E. GIBB,
Lt. Colonel,
Chief Legal Officer.

HSG/ES.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6059/L
16 November, 1943

Subject: Petitions for Review

To : Chief Legal Officer, AMG, 15 Army Group,
OMF.

There are forwarded herewith petitions to review sentences rendered in the following cases by Summary Military Courts:

1. Ascione Ciro
2. Gentile Domenico
3. Pellecchia Arturo

2. Ascione pleaded guilty to a charge of illegal possession of one box of "K" rations, and was sentenced by 2nd Lt. Ziff sitting at the Dock in Naples to 60 days' imprisonment and 5000 lire fine. No other details are available.

3. Gentile, pleaded guilty to two charges, first, violation of AMG order fixing maximum prices for commodities in the Province of Avellino by selling one litre of common wine for 15 lire which was in excess of the maximum price fixed in the AMG order; secondly, violation of same price order by selling one litre of common wine for 7 lire which wine, however, had previously been adulterated with water and which had therefore been sold in excess of the maximum price fixed as aforesaid. Capt. O.W. Campbell sitting in Avellino sentenced the accused to 6 months' imprisonment and a fine of 25,000 lire (in default of payment of which, 250 more days in jail). The petition for review states, ~~that~~ you will note that accused did not intend to plead guilty. ~~According~~ *that this sentence is too severe* 15:

4. Pellecchia pleaded guilty to a charge of violation of an AMG order fixing maximum prices for commodities in the Province of Avellino.

To : Chief Legal Officer, AMG, 15 Army Group,
CMP.

There are forwarded herewith petitions to review sentences rendered in the following cases by Summary Military Courts:

1. Ascione Gino
2. Gentile Donenico
3. Pellecchia Arturo

2. Ascione pleaded guilty to a charge of illegal possession of one box of "X" rations, and was sentenced by 2nd Lt. Ziff sitting at the Dock in Naples to 60 days' imprisonment and 5000 lire fine. No other details are available.

3. Gentile, pleaded guilty to two charges, - first, violation of AMG order fixing maximum prices for commodities in the Province of Avellino by selling one litre of common wine for 15 lire which was in excess of the maximum price fixed in the AMG order; secondly, violation of same price order by selling one litre of common wine for 7 lire which wine, however, had previously been adulterated with water and which had therefore been sold in excess of the maximum price fixed as aforesaid. Capt. O.W. Campbell sitting in Avellino sentenced the accused to 6 months' imprisonment and a fine of 25,000 lire (in default of payment of which, 250 more days in jail). The petition for review states, ~~that~~ you will note that accused did not intend to plead guilty. *Decided that this sentence is too severe*

15:

4. Pellecchia pleaded guilty to a charge of violation of an AMG order fixing maximum prices for commodities in the province of Avellino in that he sold 1 litre of wine for 15 lire in excess of the maximum price fixed. Capt. W.C. Campbell sitting in Avellino sentenced the accused to 6 months' imprisonment and a fine of 25000 lire (or in default of payment of the fine an additional term of 250 days). The petition in this case also alleged that the accused pleaded guilty under a mistake of language. In view of the fact that this case involves no charge of adulteration as in the previous case, the sentence may well be considered too severe..

J. V. M. Shields

J.V.M. Shields, Lt. Col.,
Senior Legal Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Legal
B
NOV 1943
1
Amgot 3/607L/L
14 November, 1943

Subject: Petitions to Review

To : Chief Legal Officer, HQ. A.M.G., 15 Army Group

There is forwarded to you herewith petitions to review submitted on behalf of Bruno Giovanni and Ugliano Salvatore di Enrico, convicted by Summary Military Courts sitting in the City of Naples.

2. Bruno, after a plea of guilty to a charge of illegal possession of one box of "K" rations of the Allied Forces was sentenced to 60 day's imprisonment and 5000 lire fine by the Summary Court sitting at the Dock in Naples. This Court was set up at the request of Brigadier General Pence commanding the Peninsular Base Section for the purpose principally of handling cases of pilfering. 2nd Lieut. Ziff was appointed a Summary Court for this purpose. In view of the charge and in view of the fact that hungry Italians in this city cannot restrain themselves from accepting gifts of food from soldiers, the sentence may well be considered too severe.

3. Ugliano, pleaded guilty to the charge of wrongful possession of property of the Allied Forces and was sentenced to 30 days in jail by 1st Lt. Kazen, Judge of Summary Military Court No. 1 in Naples. No other details of the case are available.

Serial No. 24
Serial No. 21
Henry L. Allen
Capt. I.A. G.D.
J.V.M. Shields, Lt. Col.
Senior Legal Officer
A.M.G. 5th Army

Incl. 2

To the President of the Allied Military Tribunal.

Bruno Giovanni fu Ferdinando on the 4th November was found in possession of some kind of rations while working at the port. He was immediately brought before you and sentenced to 60 days imprisonment.

Since it is not possible to treat the appeal the undersigned lawyer asks ~~in~~ for a change of the sentence or the suspension of it even paying a small bond for the poor condition of the family.

Bruno is the only one who cares for the support of his mother and three sisters.

Naples; 9/11/1943

*Findings confirmed
Sentence reduced to
30 days
J. J. J. J.
29/11/43*

signed: Avv. Francesco Molfese

Ref. FF. 3080.

29th. Nov. 43.

SUBJECT: Summary Court Records.

TO: AMG 15th. Army Group (Through AMG Hqs; 8th. Army.).

FROM: S.C.A.O. FOGGIA PROVINCE(LEGAL DIV.).

Enclosed are Summary Court records of cases tried in Foggia Province, as follows:

DISTRICT.

Cerignola.

CASE NO.

51251--53 incl.
51255--51265
51267--51313.

Foggia.

53--58 incl.
60--179 incl.

Lucera.

1--10 incl.

Manfredonia

2--4 incl.

San Severo

1--12 incl.

Troia

1 and 2.

No records of cases tried in Foggia Province prior to Oct. 21st. have been furnished this Hqs., except as to Foggia Town. We have the court record book of Foggia town, covering cases No. 1 to 53, and if you desire, these will be extracted and forwarded to you.

Records have not been kept in "Summary Military Court Record Book" because these books have not been available. One has just been obtained, and as soon as a supply can be printed, C.A.O.s will be instructed to use same. Pending receipt of these books, it was deemed advisable to improvise the summary court record form used in cases forwarded herewith.

Would appreciate advice as to how frequently it is desired that summary court officers transmit summary court records for forwarding to your office.

Wm. H. Levitt MAJOR.

Enclosed are Summary Court records of cases tried in Foggia Province, as follows:

DISTRICT.

CASE NO.

Cerignola.

51251--53 incl.
51255--51265
51267--51313.

Foggia.

53--58 incl.
60--179 incl.

Lucera.

1--10 incl.

Manfredonia

1--4 incl.

San Severo

1--12 incl.

Troia

1 and 2.

No records of cases tried in Foggia Province prior to Oct. 21st. have been furnished this HQs., except as to Foggia Town. We have the court record book of Foggia town, covering cases No. 1 to 53, and if you desire, these will be extracted and forwarded to you.

Records have not been kept in "Summary Military Court Record Book" because these books have not been available. One has just been obtained, and as soon as a supply can be printed, C.A.O.s will be instructed to use same. Pending receipt of these books, it was deemed advisable to improvise the summary court record form used in cases forwarded herewith.

Would appreciate advice as to how frequently it is desired that summary court officers transmit summary court records for forwarding to your office.

Wm. H. Levitt MAJOR.
for Lt. Colonel.
S.C.A.O. FOGGIA PROVINCE.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6071/L
25 November, 1943

Subject : Petitions for Review.

To : Chief Legal Officer, HQ. A.M.G., 15 Army
Group.

1. There is forwarded to you herewith a petition for review submitted on behalf of Bruno Giovanni. A previous petition was forwarded to you on behalf of this accused under date of 14 November, 1943.

2. With reference to the fifth paragraph of the translation I have interviewed the President of the Summary Court by which this accused was tried. He states that the accused was given every opportunity to answer the charge but that he pleaded guilty and did not request any time to prepare a defence.

3. As I stated in my previous letter of even number I consider that the sentence may have been too severe and recommend a reduction to say 30 days with no fine.

J. V. M. Shields
J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
AMG, 5th Army.

Incl. Petition

has action Review of ...
photo ...
1/12

108-

Campobasso 2/11/43
1st Ind.

To: C. L. O., A. M. G., 15 Army
through S. C. A. O. - 8th Army

1. Forwarded, for
examination & file.

Edwin J. Mercer

EDWIN J. MERCER, MAJ. ORD.
SENIOR LEGAL OFFICER, 8th ARMY

Forwarded
S. C. A. O.
H. H. H. H. H.

Examined
H. H. H. H. H.

20.

SCAPO

Macchiagodena

19 November 1943

Subject: - Summary Court Case (attached)

To : - S.C.H.P.O. Campobasso

1. Attached are the papers in connection with the trial & conviction of CARLUCCI Nicola di Angelo

2. The Maresciallo of Carabinieri here has been provided with one set of these papers, and the jailer at Cantalupo with a copy of the Commitment.

3. The culprit in this case is a first offender with a hitherto good character or record and acted under the influence of others in his actions; he pleaded guilty and cooperated fully with the Court.

Robert M. Patterson
Major, Cavalry (USAF)
HMC Summary Court

Forwarded:

Subject: - Summary
To: - S.C.A.T.P.O. Campobasso

1. Attached are the papers in connection with the trial & conviction of CARLUCCI Nicola di Angelo

2. The Maresciallo of Carabinieri here has been provided with one set of these papers, and the jailer at Cantalupo with a copy of the Commitment.

3. The culprit in this case is a first offender with a hitherto good character & record and acted under the influence of others in his actions; he pleaded guilty and cooperated fully with the Court.

Forwarded:

Robert M. Patterson
 Major, Cavalry (USF) FMG
 C/O Maccchia godana

Robert M. Patterson
 Major, Cavalry (USF)
 FMG Summary Court
 Maccchia godana

W. G. 7
 11/11/50
 22

SUBJECT: Proceedings of Military Court.

AMG.HQ. Eighth Army.

AMG.15 Army Group.

20 Nov. 43.

1. Enclosed are proceedings in the case of:

A (i) Alberto Santo di Vincenzo
(ii) Turco Emilio di Pasquale

B (i) Ottavio d'Amato
(ii) Altura Giacchino

2. Attached also is memorandum from G.H.Q. which is returned in accordance with request contained in para 3 of the memorandum.

Refers.
Group Captain,
Officer Commanding,
AMG.HQ. Eighth Army.

Group Captain Benson

H.Q. AmC.
15 Army Group.

A.M. Combs - Case of Otavio d'Amato &
Alina Gioacchino.

I have read attached proceedings in above case and discussed the same with Major Meier. I have asked Major Meier whether the military expediency, which was recorded as influencing the sentence, was the fact that the accused were in a forward area without leave or ~~it~~ was that the Provincial Medical Officer had no motor-car. I am assured by Major Meier that the fact that the P.M.O. had no motor-car did not influence the confiscation but that he recorded the disposal of the car only in his remarks for it.

2. I have informed Major Meier that the way in which the record is written-up is unsatisfactory in that his endorsed remarks are ambiguous and misleading and I have directed that the record be re-written by him and be again submitted for examination.

3. When this memo please Benson attached to the proceedings which should be sent back with the new and correct record.

Alvin Giosachino.

I have read attached proceedings in above case and discussed the same with Major Mercer. I have asked Major Mercer whether the military expediency, which was noted as influencing the sentence, was the fact that the accused were in a forward area without leave or ~~his~~ was that the Provincial Medical Officer has no motor-car. I am assured by Major Mercer that the fact that the P.M.O. had no motor-car did not influence the confessions but that he rendered the disposal of the car only at his request for it.

2. I have informed Major Mercer that the way in which the record is written-up is unsatisfactory in that his endorsed remarks are ambiguous and misleading and I have detected that the record has been written by him and he again submitted for examination.

3. When this memo please remain attached to the proceedings which should be sent back with the new and correct record.

H. J. [Signature] W. L. L.
C. L. D.

16 Nov 43.

P.S. The above also applies to case of Santo + Tunes, proceedings of which are also attached.

[Signature]

SUBJECT: Superior Military Court - LARIN - case of RAIMONDO
PAOLO and others.

208/A

AMG.HQ. Eighth Army.
OA/13/50A.
22 Nov.43.

AMG.HQ. 15 Army Group.

1. Receipt is hereby acknowledged of your letter ref. AMG/208/A/1 dated 18 Nov.43.

Group Captain,
Officer Commanding,
AMG.HQ. Eighth Army.

6

Subject: Superior Military Court - LACINO - case of RAIMONDO
PAOLO and others.

H.Q.,
A.M.G.,
8th Army.

H.Q. A.M.G.,
15 Army Group,
C. M. F.

AVG/208/A/1
18 Nov. 43.

The proceedings of the above case have been reviewed by the C.C.A.O. on the petitions of the accused and he has confirmed the convictions and sentences against:-

Raimondo Paolo di Costanzo.
Raimondo Costanzo fu Paolo.
Colantonio Giuseppe di Giovanni.
Colantonio Giovanni di Giuseppe.

2. The conviction of Mazzalunga Filomena fu Luigi has been confirmed but the sentence of one year's imprisonment has been reduced to two months.
3. Each of the accused should be informed respectively of the result of his or her petition.
4. Please acknowledge.

HER/JC.

H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer,
for Major-General,
Chief Civil Affairs Officer.

5

206 23

Campo base 18/11/43

NOV 1943

Subject: Records of proceedings forwarded.

To: C L O, A M S Hq, 15 Army Group.

1. Undersigned has in the past forwarded records of proceedings by indorsement - "Forwarded for review"

2. This form was adopted in view of Proc. No 4, Art VII, entitled "Review."

3. It appears that such form of indorsement is too broad for application to all cases.

4. In the future I will indorse "Forwarded for examination" unless the case is one which should be reviewed by a designated officer as provided in Sec. 3 of said article.

Edwin J. Mercer

EDWIN J. MERCER, MAJ. GRD.
SENIOR LEGAL OFFICER, 8th ARMY

Subject: Allied Military Court - NAPLES - Cases of Di Giacomo
and others.

S.L.O.,
H.Q., A.M.G.,
Fifth Army.

H.Q. A.M.G.,
15 Army Group,
C. M. F.

AMG/208/
18 Nov. 43.

The petitions for review have been considered by the
C.C.A.O. in the cases of:-

- (a) Di Giacomo Carmine fue Antonio.
- (b) Torlino Matteo.
- (c) D'Alfonso Donantonio.
- (d) De Masullo Pasquale.

Serial Nos.
13 - 16.

2. In the first two named cases the convictions and
sentences have been confirmed.

3. In the cases of D'Alfonso Donantonio and De Masullo
Pasquale, the C.C.A.O. has quashed the convictions and sentences
and directs that the Civil Police be informed of the cases and
told that if there is evidence of pre-occupational offences by
either of the accused, he should be charged with the same before
an Italian Court.

HER/JG.

H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer.

3

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot/3/6016/L
6 November, 1943

Subject: Return of Summary Court Cases.

To : Chief Legal Officer, AMG, 15 Army Group, CMF.

1. As requested in your communication of
File 201 29 October, 1943, AMG/201/I, I am forwarding to you
F. 2 < herewith a return of cases heard by Summary Courts in
the 5th Army Area since the receipt of your communication,
so far as a report has been received by this office.

2A.
Henry L. Shields
for Capt. J.A.G.D.
J.V.M. Shields,
Lieut. Colonel,
Regional Senior Legal Officer 2

Incl. Cases

Recd
10/11

1280

Subject: Summary Military Court, TROUBLE - Case of
SGARINI Alberto.

H. A.M.G.,
15 Army Group,
C. H. F.

Senior Legal Officer,
Headquarters,
AMG, 8th Army.

AMG/208/3
14 Nov. 53.

Reference the proceedings for the above case
forwarded to this H.Q. for review.

1. The C.I.C. does not intend to recommend a review
in this case under Section 3 of Article VII of Proclamation 4
and there is no petition. The accused was charged with dis-
obeying an order contrary to Section 44 of Article II of
Proclamation 2. Although the wording of the particulars of
the charge did not actually use the words "that the accused
did fail to obey an order", the facts of the charge were quite
clear and the accused in his statement to the Court stated that
he was told by the Military Police not to go to PISGARA.

2. The sentence is by no means too light and it is
suggested for consideration whether civilians attempting to go
through the lines should not be tried in all cases by a Superior
Court rather than by a Summary Court, having regard to military
security. The offender may be quite innocent in his intentions
but if interrogated by enemy Intelligence, he might be capable
of affording a considerable amount of information. Such cases
should therefore be severely dealt with.

H. R. ROWE,
Lieut. Colonel,
Chief Legal Officer,
for Major-General,
Chief Civil Affairs Officer.

HMR/JG.

1

1281