

Br. 95

Trial against

Ignis Bascioni

&

2 others.

BR 95

MILITARY COURTS FOR THE TRIAL OF WAR CRIMINALS

D.J.A.G's Case No. 19/835

Name of Accused (including Rank, if any)	Arm or Former Arm of the Service	Age	Date and Place of Trial
Iginio BASCIONI Olindo VERDECCHIA Luigi MURA	All civilians		24 April 1946. ANCONA
			Convened by
			Commander, 3 District, C.M.F.

CHARGES

JOINT CHARGE. COMMITTING A WAR CRIME in that they near GROTTAZZOLINA on 3 May 44, in violation of the laws and usages of war, were concerned in the killing of Lance-Corporal WARNER and Private WALKER, escaped Prisoners of War.

President and Members of the Court (except Legal Member)	Judge Advocate/Legal Member
Lt-col. H.P. WHITEFOORD Major B.A. HARWOOD Major R.A. COOPER	R.A. R.A.S.C. R. Sigs. -N.A.-

Pleaded	Finding
<u>All accused.</u> Not Guilty	<u>All accused.</u> Guilty

Sentence and Minute of Confirmation

BASCIONI 3 years imprisonment.
VERDECCHIA 3 years imprisonment.
MURA 1 year's imprisonment.

Confirmed by Commander, 3 District, C.M.F., on 5 June 1946.

When and where Promulgated:— 7 June 1946.

Date of Receipt	To whom sent	Date sent	Purport

General Report of the Proceedings of a Military Court

held at ANCONA on 24 - 27 April 46

for the trial of

16171/2/A-3Iginio BASCIONI
Olindo VERDECCHIA
Luigi MURA

Italian Nationals

Charged with

COMMITTING A WAR CRIME
in that they

near GROTTAZZOLINA, on 3 May 44, in violation of the laws and usages of war, were concerned in the killing of Lance Corporal WARNER and Private WALKER, escaped Prisoners of War.

PLEA : All accused; NOT GUILTY

The Defending Advocates applied for an adjournment on the grounds that Bdr LEYLAND, a witness of the prosecution, was not present to give evidence in person and that thus the defence would have no opportunity for cross examination.

The Court citing Regulation 8 (1)(a) of Army Order 31 of 1945, refused this application, agreeing however to take all possible steps to secure the attendance of LEYLAND.

The ProsecutionWitness: John BEDFORD

Witness, at the time an escaped prisoner of war, stated that in May 44, while returning to GROTTAZZOLINA from a nearby farm with Pte ARNOLD, they were fired on after having crossed the river ETE : witness and ARNOLD made for the cover of a cornfield. It was then that they first saw two men firing . Witness and ARNOLD went to ground and the fire was then shifted onto another target : the shooting was with an automatic weapon.

An Italian, identified as BASCIONI, armed with a sub machine gun then approached and took witness and ARNOLD prisoner: he was then joined by VERDECCHIA to whom he said in Italian that one man was dead, one badly wounded and one a prisoner. Both BASCIONI and VERDECCHIA were dressed in civilian clothes.

The two prisoners were then taken to a farm where BASCIONI and VERDECCHIA commandeered an ox cart : this they took out, subsequently returning with the dead body of WARNER and Pte WALKER, who was badly wounded. Bdr LEYLAND was also in the cart. The whole party then set off, subsequently being taken to FERMO hospital in a lorry which had been obtained by another Italian.

Questioned by the Court witness stated that he heard no shout before the firing started.

Witness : John GRAY

In the early part of 1944 witness, an escaped PW at the time, saw four men armed with machine guns and a rifle : he immediately went to the farm where LEYLAND and WARNER lived to warn them, but did not find them in the house. He then heard a burst of automatic fire and looking out from the farm buildings saw four men coming up the hill from the direction of the river. Witness and another escaped PW made their escape by a concealed route to the cover which the bushes beside the river offered. He then heard more firing, and heard a shout which he recognised as WARNER's.

Cpl LEHNER, official interpreter, produced to the Court the statement of the accused MURA. MURA, in company with BASCIONI, VERDECCHIA and MANZINETTI was proceeding by car from FERMO to BELMONTE PICENO : they were in civilian clothes with the permission of the commandant of the GNR. At GROTTAZZOLINA BASCIONI insisted on the party dismounting to hunt for escaped P'sw. They walked along the river ETE.

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BASCIONI and VERDECCHIA, who were ahead, suddenly started shouting and waded through the river: MURA and MANZINETTI followed by means of a ford, at the same time as which they heard a burst of automatic fire. MURA then saw BASCIONI holding up three men who had their hands raised. MANZINETTI then shouted that there were three more men on the hillside whereupon BASCIONI ordered MURA and VERDECCHIA to go after them. Going after these they lost sight of them until VERDECCHIA started shouting 'halt' and opened fire: VERDECCHIA ran to the men and signalled back that they had surrendered. MURA, arriving on the spot, found two wounded men, one of whom died shortly afterwards. BASCIONI and MANZINETTI arrived later. The wounded men were removed in a cart and subsequently transferred to FERMO hospital in a lorry organised by MURA.

The Prosecutor submitted that MURA's statement was evidence against all three accused, having regard to Regulation 8 (ii).

Defence Counsel submitted that, while under Regulation 8 (ii) the statement might be prima facie evidence of the general responsibility of each member of the group, it was not evidence against the other members as to the particular facts stated therein.

The Court ruled that the statement would be regarded as evidence generally in the case, such weight being given to it as it appeared to merit in the light of other evidence produced.

Witness: Gino MARCHETTI

On the afternoon of 3 May 44 witness, a farmer, returned to his home and found Bdr LEYLAND, L/Cpl WARNER and Pte WALKER in the house: he already knew them as escaped P's W. Hearing some shooting coming from the direction of the river ETE he told these three men to hide. They left the house but instead of taking the route he advised set off up the hill. The firing continued and witness saw the men moving up the hill alternately lying down and moving on. When they had gone about three hundred yards from the house two of them were hit, one fatally. Witness recognised BASCIONI as the man talking to LEYLAND after the three escapees had surrendered.

Witness: Filippo LATTANZI

Witness identified BASCIONI and VERDECCHIA as two of the four men he had seen firing at men hiding in the corn on the banks of the ETE on the afternoon of 3 May 44. Witness only saw the men being fired at while they were lying down: the shortest range was about a hundred yards.

On examination witness stated that all four men were firing, and that fire continued after the first man of the party of three had been hit.

Witness: Filippo SONAGLIONI

Witness stated that on the day in question he saw some Fascists, whom he identified as the accused firing at two men who were running away: these two surrendered and were kicked by the Fascists: he later saw fire directed at three more prisoners.

Questioned by the Court witness stated that fire was directed at the second party while they were lying in the grass: it ceased at a range of about thirty five metres. All four Fascists were firing at this second party.

Witness: Sr. Lorenzo GUERRIERI

Witness stated that WALKER died of his wounds after admission to FERMO hospital.

A War Office cable was produced to the Court, stating that Bdr LEYLAND was in hospital in the UK and that it would be impossible for him to attend this trial.

The affidavit of LEYLAND was produced to the Court.

On the afternoon in question LEYLAND in company with WARNER and WALKER, who had lunched in the house of some peasants, were warned by the family that Fascists were shooting in the area. The party left the house and made off up the hill, going away from the sound of the firing. Shots began to fall near them and the party started to crawl. WALKER was hit first and then WARNER.

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The Defence

Witness : the accused BASCIONI

Witness alleged that prior to the incident in question, as a police official, he had connived in the presence of and activities of many British P's W in the area of FERMO.

On the day in question he had gone from FERMO to BELMONTE PICENO, of which town he was Mayor, and had been given an escort of three men, as he was afraid of an attack by partisans : for this reason the party was dressed in civilian clothes and was armed. On the return journey the party dismounted from the car near GROTTAZZOLINA, and shortly afterwards about nine people were sighted on a hillside; witness was afraid that this was a partisan ambush. Two men were then sighted at a range of about a hundred yards, and witness gave chase, after having shouted to them to halt, as he thought they looked suspicious. Witness captured these two men - there had been shooting but he had not fired. More shooting then started, and VERDECCHIA who had joined witness went off to investigate. He (BASCIONI) remained with the prisoners : he next saw VERDECCHIA and MURA return with another prisoner, and was informed that one man had been killed and one wounded.

In cross examination witness denied that the purpose in dismounting from the car was to hunt for escaped P's W. He denied that he was in command of the party but admitted that he was the senior in rank and therefore responsible for their actions. He admitted that part of his duty was to look for parachutists who were thought to be in this area.

Witness: the accused VERDECCHIA

On the day in question witness was detailed as an armed escort for BASCIONI. In the capture of the first two prisoners he admitted following BASCIONI and firing two shots into the air. After the first capture he saw MANZINETTI firing into the hillside and he (witness) fired two or three bursts into the air. Witness then saw a hand raised above the corn in surrender. When taken prisoner witness stated that this man had said that they (the second party of prisoners) should have halted after having been called upon to do so.

In cross examination witness stated that he fired into the air, in order to scare the fugitives into surrender : no firing took place after the hand was raised above the corn. The prisoners did not return any fire and were found to be unarmed.

Witness : the accused MURA

Witness corroborated BASCIONI's statement that the party of men first seen on the hillside looked suspicious, and that they were apprehensive of attack. When the second shooting started he followed VERDECCHIA up the hill and saw MANZINETTI firing. He saw VERDECCHIA fire some shots into the air, and did the same. He corroborated VERDECCHIA's statement that the unwounded prisoner had said that it was their own fault.

In cross examination witness stated that BASCIONI did not say that there were English P's W about, and that when he had made his previous statement to that effect he had been confused. In other particulars witness refuted his previous statement but would not admit that he was trying to lay the blame on MANZINETTI, who was now dead.

Witnesses as to character were called by the accused

The Prosecutor addressed the Court. The accused, being policemen, were under an obligation to attempt to arrest escaped P's W. But while the use of arms might be justified while such prisoners were attempting to run away, no such justification existed when they were lying on the ground. The evidence showed that VERDECCHIA and MURA had continued to fire after the men had fallen to the ground. BASCIONI did not fire at WARNER and WALKER, but was following, escorting ARNOLD and BEDFORD; but, being the leader, he was responsible for the actions of VERDECCHIA and MURA. The Prosecutor submitted that the use of arms was only justified as a last resort to prevent the escape of a prisoner of war and that thus the shooting of WARNER and WALKER, which went beyond this, constituted a war crime. Prisoners of war were entitled to be humanely treated and to be protected from violence. No proof existed as to who fired the fatal shots but this was in itself irrelevant to the issue : it had been proved that all three accused and MANZINETTI had been concerned in the shooting.

Counsel for BASCIONI and MURA addressed the Court, submitting that, although BASCIONI was senior in rank, he was not in fact in command of the party. It was submitted that there was every reason for BASCIONI and MURA to be alarmed at the sight of persons behaving in a suspicious fashion : the area was dangerous at that time.

It was submitted that escaped prisoners of war were not entitled to protection under the Geneva Convention 1929, but were governed by the laws of the country in which they found themselves.

Prisoners in flight laid themselves open to be fired upon : there was, in addition, sufficient to justify the accused in thinking that the men were dangerous.

The Court found all three accused GUILTY and sentenced

BASCONI to 3 years' imprisonment
VERDECCHIA to 3 years' imprisonment
MURA to 5 years' imprisonment.

On 5 June 46 Major General CLOWES, GOC No 3 District confirmed the finding and sentence of the Court.

ESR/ml