

Br. 76.

Trial against

Colonello Francesco Paolo Turo

MILITARY COURTS FOR THE TRIAL OF WAR CRIMINALS

D.J.A.G's Case No. 19/845

Name of Accused (including Rank, if any)	Arm or Former Arm of the Service	Age	Date and Place of Trial
Colonello Francesco Paolo TURCO	Italian Army		8th April 1946: MILAN
			Convened by
			Commander, No2 District C.M.F.

CHARGES

Charge COMMITTING A WAR CRIME in that he at ORIO AL SERIO, ITALY, on or about 16 July 1943 in violation of the laws and usages of war killed Private Lambris TOFI a British prisoner of war.

President and Members of the Court (except Legal Member)	Judge Legal Member
Brigadier P.F. FOLEY, CBE R.E. Lt-col T.F. GOODWIN, DSO, RE 179 CRE Works, R.E.	Major L.J. GHOST R.A. Solicitor.

Pleaded	Finding
Not Guilty.	Guilty. Strong recommendation to mercy.

Sentence and Minute of Confirmation

To suffer death by shooting. Confirmed by Supreme Allied Commander, Mediterranean Theatre on 14th May 1946 who commuted the sentence to one of fifteen years imprisonment.

When and where Promulgated :— 3 June 1946

Date of Receipt	To whom sent	Date sent	Purport

E-4
(B1)

(76)

GENERAL REPORT OF THE PROCEEDINGS OF A MILITARY COURT
HELD IN THE ROYAL PALACE OF JUSTICE, MILAN,
ON 8 - 10 APR 46 FOR THE TRIAL OF
Colonello Francesco Paolo TURCO,
Italian Army

Charged with

< COMMITTING A WAR CRIME

in that he

at ORIO AL SERIO, ITALY, on or about 16 July, 1943, in
violation of the laws and usages of war, killed Private
Lambris TOFI, a British prisoner of war. >

PLEA : NOT GUILTY

PROSECUTION

1st witness : Capt Giuseppe COZZOLINO

Witness was employed as an interpreter in GREEK at Camp PG 62. In July 1943 a request was received at the camp from the German authorities for the provision of PsW to be employed in the clearance of trees, in connection with the construction of an airfield. Authority for the use of PsW for such a purpose would have had to have been obtained from HQ MILAN : witness believed that such authority was obtained by Col TURCO, the Commandant of the Camp. Cypriot prisoners were nominated for this task.

On the day that the PsW were first sent to commence this work witness accompanied TURCO to the site. Some of the parties of prisoners were not working. The accused approached one party and asked why they would not work, the answer received being that the work was in connection with airfield construction. Accused ordered that complaints should be made later ; some of the groups then went to work. Other groups were told that they would be arrested if they did not go to work. Each group had an escort of 2 or 3 Italians.

Accused accompanied by a Cypriot Serjeant Major then visited another group who had refused to work. The Serjeant Major urged the men to go to work but without success. TURCO then ordered the men to be formed into two ranks, the intention being to call out each man individually and order him to go to work. The first man called out was told that if he did not work he would be brought before a Military Court; the accused added that if he did not work he would be shot, but the man still refused to work and stepped forward : TURCO ordered one of the Italian escort to prepare to fire; the escort unshouldered his rifle and took aim. The accused again asked the prisoner if he would work and the prisoner again refused. The accused then ordered the escort to fire. The escort released his safety catch but did not fire. The accused again asked the prisoner to work and was again refused : the accused then said he would shoot the prisoner if he continued to refuse. The prisoner made a gesture with his hand, whereupon the accused took the rifle from the escort and fired it : the prisoner fell to the ground wounded in the stomach. The remaining prisoners then started to work.

The victim was taken to hospital : witness was later sent by the accused to the hospital where he learnt that the victim had died.

/to sheet two

Witness prepared a true report of the incident which was forwarded to higher authority over TURCO's signature.

In cross-examination witness stated that the orders to the guard laid down that, to prevent escape, a shot should first be fired in the air, then at the feet of the escapee if the first failed to act as a deterrent, and finally at the individual himself.

When fallen in in two ranks the prisoners were not carrying their tools. The gesture made by the victim was arrogant but not threatening.

2nd Witness Dvr GREGORIOU, RASC

Witness was one of the prisoners concerned on the morning of the incident. He refused to work because there were aeroplanes on the ground nearby and the prisoners had been informed by the Red Cross that they should not work in Military zones. Witness was in the same group as Pte TOFI, the victim.

He heard TURCO give no orders, except to the escort to fire : the guard refused to shoot, whereupon the accused took his rifle, aimed at Pte TOFI, the first in the line, and shot him. Accused refused permission for TOFI to be moved into the shade : he was left lying for about half an hour before the ambulance arrived.

In cross-examination witness denied that orders to work were repeated by Capt COZZOLINO.

TURCO fired directly in front of him and not at the feet of TOFI. Questioned by the Court witness stated that TURCO ordered the Serjeant Major to have the men paraded.

The prosecuting officer tendered the statements of Cpl KARAPITAS, RASC, and Aracletto GRILLO.

KARAPITAS was a member of the PW working party in question : TURCO ordered the guard of six men to load their rifles. He then took a rifle from one of the guards and shot the man on the right of the squad, TOFI, at a range of about two yards.

GRILLO Italian medical officer at the camp, related the admission of TOFI to the hospital and the nature of his wounds. An operation was performed by witness and a British medical officer, but the patient died. He had been wounded in the thigh and stomach.

THE DEFENCE

Monsignor TESTA, Apostolic Delegate from the Vatican City.

Witness testified to the good organisation of the camp, comparing it favourably with PW Camps he had visited in Palestine. TURCO was a kindly and humane man.

Colonello Francesco TURCO, the accused.

Witness confirmed that a request had been received from the German authorities in March 1943, for PW for working parties. He notified MILAN HQ., stating that he was opposed to this project : he thought then that the work might be of a military nature. In July 1943, he was ordered by the MILAN HQ to supply the prisoners. CYPRIOT prisoners were the only ones available : they were difficult to handle. On the evening prior to the day of the incident he was advised that the prisoners would

/to sheet three ..

mutiny when sent to the working site.

On the morning in question witness visited the prisoners at their work and found them in a mutinous state. Witness confirmed that he ordered them to work, pointing out that it had been authorised by higher authority. He threatened them with disciplinary action and shooting, this having the effect of persuading some of the parties to go to work.

Witness then visited another party which still refused to work; they were formed up in two lines. Witness tackled the first prisoner, who continued to refuse to work. Witness then ordered the guard to fire, thinking that a shot into the ground would have the desired effect. The prisoner in question then took a step out of line and adopted a threatening attitude. Witness again ordered the guard to shoot, but he did not obey. Witness then took the rifle and fired at the legs of the prisoner. He intended to frighten the prisoner, not to kill him.

Alfredo BOTTI

Witness was one of the guards concerned in the incident in question. The accused invited the prisoners to put their complaints in writing and invited each one individually to go back to work. Witness considered that anyone would have lost patience with them, owing to their arrogant attitude. Witness, when ordered by the accused to fire the first time, did not do so because he knew the order was given to intimidate the prisoners. Cross examined witness stated the accused was calm, not excited. He (witness) did not fire on the second order because TURCO and COZZOLINO were in the line of sight.

Other defence witnesses testified to the fact that the accused had phoned ROME and MILAN in order to obtain authority to employ prisoners on the work in question. The reply received was that prisoners were to be so employed, the work not being of a military nature.

The accused had assisted in the escape of POW, at his own risk, after the Italian armistice in 1943.

TURCO's camp was held as a model of how PW Camps should be run.

The Defending advocate drew attention, in his closing address, to the fact that TURCO had been awarded the British DSO for his services in the First World War. He submitted that the work the prisoners were called upon to perform was not of a specifically military nature. He further submitted that the accused acted as he did to quell a mutiny.

The Prosecutor addressed the Court, maintaining that, since the work the prisoners were called upon to perform was in connection with an airfield, it was ipso facto work of a military nature: the prisoners were therefore justified in refusing to work. He submitted that:

- (a) The accused intended to kill the victim, or
- (b) if he did not, he fired with the intention of wounding, resulting in an unlawful killing, or
- (c) if he intended to fire into the ground he showed a reckless disregard for the probable consequences of that act.

/to sheet four.....

The Court found the accused GUILTY.

Documentary evidence of the good character of the accused was produced and the defending advocate made a plea in mitigation, pointing out that TURCO's son had fought with the allies in ITALY.

The Court sentenced the accused to suffer death by shooting, adding a strong recommendation for mercy.

Lt-Col GOODWIN was detailed a Mandatory Witness at the execution.

10 Apr 46 The accused notified his intention to petition against the finding and sentence

11 Apr 46 Major General, P.A., HEYDEMAN, GOC No 2 District recommended that the finding of the Court should be commuted to one of seven years imprisonment.

On 14 May 46 the Supreme Allied Commander confirmed the finding and sentence of the Court but commuted the sentence to one of fifteen years imprisonment.
