

Br. 98

Trial against

Arturo Lanzetta

4

2 others.

MILITARY COURTS FOR THE TRIAL OF WAR CRIMINALS

D.J.A.G's Case No. 19/836

Name of Accused (including Rank, if any)	Arm or Former Arm of the Service	Age	Date and Place of Trial
Arturo VANNOZZI Guglielmo MASSI Fauste POLONI	Italian nationals		8th & 9th May 1946 : ANCONA
			Convened by
			Commander, 3 District CMF

CHARGES

Charge. COMMITTING A WAR CRIME in that they at ASCOLI PICENO, Italy, in or about February 1944, in violation of the laws and usages of war, were concerned in the killing of 802071 Battery Sergeant-Major W.R.A. TINDLE, Royal Artillery, a prisoner of war.

President and Members of the Court (except Legal Member)	Judge Advocate/Legal Member
Lt-col L.S. SHELDON Major P.J.H. HEYCOCK Major P.H. MORRELL, MBE	Queens. Bays. R. E. M. E. - N.A. -

Pleaded	Finding
<u>All Accused</u> Not Guilty	VANNOZZI - Guilty. MASSI - Guilty. POLONI - Not Guilty.

Sentence and Minute of Confirmation

VANNOZZI - Life imprisonment. Confirmed by Commander, 3 District CMF who commuted
MASSI - Life imprisonment. the sentences to one of 12 years imprisonment in each
case, 7 June 1946.

When and where Promulgated :— 12th June 1946. (Both accused)

Date of Receipt	To whom sent	Date sent	Purport

16171/65/A.3.

GENERAL REPORT OF THE PROCEEDINGS OF A MILITARY COURT
HELD AT ANCONA ON 8 & 9 MAY 46 FOR THE TRIAL OF

~~Armando~~ VANNOZZI

Guglielmo MASSI

Fausto POLONI

Italian Nationals

CHARGED WITH : COMMITTING A WAR CRIME.

in that they

at ASCOLI PICENO ITALY, on or about February 1944, in violation of the laws and usages of war were concerned in the killing of 802071 Battery Serjeant Major W.R.A. TINDLE, Royal Artillery, a prisoner of war.

PLEA : ALL accused NOT GUILTY.

THE PROSECUTION.

Witness : MASCIARELLI.

Witness had been responsible for the capture of TINDLE and had handed him over at the Barracks at ASCOLI PICENO; he saw Col TORREGROSSA and VANNOZZI at the time.

Witness : GIALDINI.

Witness was a militiaman at the HQ at ASCOLI PICENO. On the day in question witness was on guard outside the office of the Commander, Col TORREGROSSA. He saw TINDLE come out of the office followed by VANNOZZI who was holding a pistol. Then he heard shots being fired and saw the prisoner lying on the landing, with VANNOZZI, MASSI and POLONI standing by; a large crowd then gathered. Ten to twenty minutes later he heard two more shots. The Colonel then ordered the body to be covered.

Cross examined by VANNOZZI's advocate witness stated that the corridor was a long one with three rooms off it, one of which was the Colonel's.

Witness : VALLERANI

Witness was in his office at the HQ at ASCOLI PICENO when he heard shots being fired; he looked out and was told that a prisoner had been shot; he saw VANNOZZI. The Colonel then ordered him back to his office. Later he spoke to VANNOZZI who said that, while being interrogated by the Colonel, the prisoner had attempted to grab a hand grenade; that was how he had been shot. Later witness heard two more shots fired.

In cross-examination, witness stated that TORREGROSSA was a cruel and violent man, especially when drunk, which was nearly every afternoon.

Questioned by the Court, witness did not remember seeing MASSI or POLONI near the body.

Witness : CELANI.

Witness related hearing shots. He saw a body on the ground with VANNOZZI, MASSI and POLONI standing by. MASSI had a pistol in his hand which he replaced in his pocket. POLONI fired a shot into the body saying it was better that he should not suffer any more. After POLONI fired the last shot the Colonel came out - there was an interval of 4 to 5

/to shoot two

minutes between the first shooting and the second. Other people were present when POLONI fired. Witness did not see VANNOZZI with a pistol.

The statements of the Accused VANNOZZI, POLONI and MASSI were produced to the Court.

VANNOZZI claimed that he was not in the barracks at the time of the incident, and that Colonel TORREGROSSA had told him that he (TORREGROSSA) had been obliged to shoot a prisoner who had attempted to throw a grenade at him while being interrogated.

POLONI claimed that he was on leave in FORCE at the time of the incident, and first heard of it when he returned for duty to ASCOLI PICENO a few days later.

MASSI was in his office, in the same corridor as that of Colonel TORREGROSSA, at the time of the incident. He saw a prisoner come out of the Colonel's office followed by VANNOZZI who was holding a pistol. When they had reached the landing at the entrance to the corridor, VANNOZZI fired four or five shots into the prisoner's back. A crowd gathered round the body, including witness, until everyone was ordered back into their rooms by TORREGROSSA and VANNOZZI. MASSI was ordered by the Colonel to get something ~~to cover~~ the body. As he was doing this he saw that the prisoner was still alive; he informed the Colonel of this fact, whereupon he (the Colonel) ordered MASSI to finish off the prisoner. After some hesitation MASSI fired one shot into the prisoner's head and covered him with a blanket.

THE DEFENCE.

VANNOZZI's counsel based his defence on the submission that the prisoner was attempting to escape.

Witness : the accused VANNOZZI.

Witness stated that on the afternoon in question he went to the Colonel's office where TORREGROSSA was interrogating a prisoner. During the interrogation the prisoner grabbed a grenade, but witness seized a revolver and frustrated the attempted attack. TORREGROSSA then ordered witness to remove the prisoner to the cells, telling him to shoot if the prisoner attempted to escape. When witness and the prisoner arrived at the exit to the corridor the prisoner jumped forward and attempted to slam the door in his face. Witness shouted to him to stop, but he did not. Witness then fired and the prisoner fell. For the remainder of the incident witness corroborated the statement of MASSI.

In cross-examination witness admitted that his previous statement was false. He did not know if Col TORREGROSSA's order was illegal but he would have been shot if he had not obeyed.

Questioned by the Court witness admitted that while TORREGROSSA often threatened people with shooting he had never heard that he had actually shot anyone. Witness was compelled to fire in order to prevent the prisoner from escaping.

Witness : the accused MASSI.

Witness corroborated VANNOZZI's statement that the prisoner had attempted to escape by slamming the door in the face of his escort.

When the Colonel ordered MASSI to finish off the prisoner he was in a evil frame of mind and would brook no argument with his orders.

Cross-examined as to why he had not mentioned the attempted escape in his previous statement, witness stated that he did not then think it important.

Questioned by the Court, witness admitted that he had never heard of Colonel TORREGROSSA shooting anyone, but he knew that he once used a whip on a man.

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Cross-examined by POLONI's advocate, witness stated that he did not see POLONI at the time of the incident, nor for some two or three days afterwards.

Witness : the accused POLONI.

At the time of the incident witness was on leave, having recently moved his family to ASCOLI PICENO. He first heard of the incident from a militiaman who visited him at his home that night.

- Other defence witnesses testified to the violence of ~~TORREROSSI's~~ character and to the fact that he was now wanted for murder.

The wife of POLONI and a friend testified that POLONI was on leave on the day of the incident and that he was with them the whole of the day; the first they knew of the incident was when told by a militiaman who had come to supper.

POLONI's Advocate addressed the Court, submitting that it had been proved that VANOZZI fired the first series of shots and MASSI the second. It had been further proved that POLONI had not visited the barracks on the day in question.

The Prosecutor Addressed the Court, submitting that it was unlikely that a prisoner followed by a man with a pistol would attempt to escape; MASSI was the only witness of the original shooting.

The Legal Member ruled that, in view of Regulation 8(ii) of Army Order 81 of 1945, the statement of MASSI was admissible as evidence against both MASSI and VANNOZZI.

The Prosecutor pointed out that MASSI, in his statement made no mention of the attempted escape.

MASSI's defence was based on compulsion and superior orders. The Prosecutor cited para 443, as amended by Amdt 34 of April 1944, of Chap XIV of MML. Superior Orders are no defence and MASSI must have known that the order was unlawful.

VANNOZZI's counsel addressed the Court and citing para 108 (a) of Chapt XIV of MML submitted that the prisoner was attempting to escape, pointing out that if VANOZZI had wished to kill the prisoner he chose an absurd place; it was however the best place for an escape.

MASSI's counsel, citing para 443 of Chapt XIV of MML asked the Court to take into consideration the violent nature of the militia organisation at that time; MASSI would probably have suffered with his life if he had disobeyed.

The Court found the accused VANOZZI and MASSI guilty and sentenced each to imprisonment for life. POLONI was found not guilty.

On 7 June 46 Major General CLOWES, GOC No 3 District, confirmed the finding and sentence of the court, but commuted the sentences to 12 years imprisonment in each case.

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