UNITED NATIONS ARCHIVES

security microfilm

PROGRAMME

1986
REEL

no.

23
REDUCTION

26X
Date Submitted  Decision of Committee 1
7 MAY 1947  A  B
CARDS CHECKED  LIST 58
UNITED NATIONS WAR CRIMES COMMISSION

UNITED STATES

CHARGES AGAINST

ITALIAN

WAR CRIMINALS

CASE No. 419

Name of accused, his rank and unit, or official position.

(Not to be translated.)

1. LICATA, Giannantonio, 2nd Lieutenant, National Republican Guard

Date and place of commission of alleged crime.

10 November 1944, Villa Sasso, Reggio Emilia, Italy

Number and description of crime in war crimes list.

Murder

References to relevant provisions of national law.

Violation of the Laws and Customs of War.

SHORT STATEMENT OF FACTS.

A United States aircraft, a B-25, of the 12th Air Force, while on a combat mission to the Po Valley, 10 November 1944, was disabled. The plane crashed about 12 miles southwest of Reggio Emilia, Italy. Three members of the crew bailed out in the vicinity of Villa Sasso. Staff Sergeant Vernon I. Bender landed in a field about 500 meters from the home of Cesare Manfredi, near Route 63, at Villa Sasso. He attempted to escape, but all avenues of escape were cut off by members of the National Republican Guard, the Black Brigade, and the soldiers of the German Army.

Staff Sergeant Bender hid in a hedge row near the Manfredi home. He was unarmed and made no further effort to escape or defend himself. Lieutenant Giannantonio LICATA, a member of the National Republican Guard, saw Sergeant Bender in his hiding place and without saying a word, shot him five times. Sergeant Bender was then taken to a German hospital, but died the same day as a result of the gunshot wounds.

TRANSMITTED: U.S. Commanding General, Mediterranean Theater of Operations (Case No. 20)

* Insert serial number under which the case is registered in the files of the National Office of the accusing State.
The Missing Air Crew Report shows that a combat group of B-25's had a mission to the Po Valley on 10 November 1944. One of the planes was disabled and crashed about 12 miles Southwest of Reggio Emilia, Italy, in hostile territory. Prior to the plane crashing three of the crew bailed out. Two of the crew members were rescued by Partisans. The third crew member, shown to be Vernon I. Bender, was listed as missing in action.

The evidence shows that the three parachutists were observed by members of the National Republican Guard and the Black Brigade, both Fascist Organizations fighting with the German Army, as well as by members of the German Army itself. Members of all three organizations immediately started in the direction in which the parachutists were landing, in order to capture them.

Staff Sergeant Vernon I. Bender was at a considerable distance from the other two parachutists and landed on the farm of Manfredi about 500 meters from the farm buildings. As soon as he landed, he made his way to the Manfredi home and was told by Armida Manfredi that Fascist and German troops were approaching from all sides and he had no avenue of escape. He started to run, but his escape was cut off and he hid in a hedge row about 50 meters from the Manfredi home. At that time Bender was wearing a peasant's hat, but Armida Manfredi did not see any weapons of any kind on the airman.

The German and Italian soldiers searched the home and outbuildings and accused Armida Manfredi of hiding the airman. She saw two Italians approach Bender's hiding spot and one of them fired several rounds into the hedge row without saying a word.

The wounded Bender was then dragged from his hiding place and a German captain who appeared on the scene about that time was observed reprimanding the accused. The German captain directed that the American aviator be taken to the 77th German Army Hospital at Reggio Emilia and an Italian lieutenant, assisted by three Italian soldiers, took the wounded American to the hospital.

Armida Manfredi was arrested and taken to Reggio Emilia. The accused rode in the same car with Armida Manfredi and boasted that he had killed "a little Britisher".

Examination at the hospital showed that the United States aviator had several gunshot wounds, two breast high, one in the lower abdomen and two, or three, in the thighs. He was operated upon immediately, but he died the same day.

The body was taken to a cemetery in Reggio Emilia on 10 November 1944 for burial.

Bender's body was removed from the cemetery at Reggio Emilia on 15 June 1945 and was re-interred in an American cemetery.
The Missing Air Crew Report established the fact that on the 10 November 1944, a B-25 crashed southwest of Reggio Emilia, Italy, and that Staff Sergeant Vernon I. Bender, a member of the crew was missing in action. The testimony of Armida Manfredi, Arnaldo Motti, Annibale Cuoghi, Gino Bertoldi and Giorgio Zanotti verifies the fact that on the 10 November 1944 three men parachuted from a disabled plane in the vicinity of Sasso, Reggio Emilia and that one of the three men was shot a number of times with a machine gun or a machine pistol.

Armida Manfredi identifies the accused as the one who boasted of killing the airman. Arnaldo Motti saw the accused being reprimanded by a German captain, Laibold, at the scene of the crime. At that time the accused was armed with a machine gun fastened at his shoulder with a belt in ready position. Annibale Cuoghi confirms the statement of Motti. Gino Bertoldi, in a later statement, states that he was with Licata when the airman was discovered in the hedge row and that Licata shot the airman without warning.

The accused stated to Giuseppe Bonnini, on the afternoon 10 November 1944, that "I saw the individual escape disguised as a peasant and knocked him down with machine-gun fire".

The accused admits that he was present when the airman was shot; that he had his machine gun ready and pointing at the deceased, but did not fire; that the airman was shot by a civilian unknown to the accused.

Gino Bertoldi and Lieutenant Zanotti, both state that Captain Laibold ordered the wounded airman taken to the German hospital in Reggio Emilia and Zanotti further states that, with the help of three Italian soldiers, he took the wounded airman to the German hospital. Zanotti heard later that the airman had died.

Walter Izerki was on duty at German Army Hospital No. 79 at Reggio Emilia when the airman was delivered to the hospital by Zanotti.

Izerki describes the gun shot wounds that caused death and stated that the airman died following an operation and was sent to a civilian cemetery in Reggio Emilia on the same day for burial.

A certificate from the Town Hall of Reggio Emilia shows that the body of Vernon I. Bender was received from the local German Military Hospital 10 November 1944 for burial.

The Graves Registration Report shows that the body, delivered to the civilian cemetery on 10 November 1944, was disinterred on 15 June 1945 and was identified by identification tags on the body as being that of Staff Sergeant Vernon I. Bender.

There is a photograph of Sergeant Vernon I. Bender in the file and it is possible that some of the witnesses may be able to identify the airman Bender from the photograph.
NOTES ON THE CASE

(If under this heading should be included the view taken as to (a) the degree of responsibility of the accused in view of his official position, e.g., was offence committed on the offender's own initiative, or in obedience to orders, or in carrying out a system approved by authority or a legal provision; (b) the probable defence; (c) whether the case appears to be reasonably complete.)

(a) The offense was committed on the accused's own initiative. The accused states that, when the parachutists were observed, his detachment received orders to capture them. However, he states further that, when the German captain, Lejbold, saw Bender trying to escape, the German captain said we could fire.

(b) The probable defense - no war crime was committed.

The evidence shows that Staff Sergeant Bender had bailed out from a disabled plane and landed in territory held by the enemy. He was unarmed, offered no defense and was not attempting to run away when shot, but rather had he surrendered. Article 23-d of the Annex to the Hague Convention, No. IV, 18 October 1907, provides as follows: It is forbidden "to kill or wound treacherously individuals belonging to the hostile nation or army."

Paragraph c of the same article provides: It is unlawful "to kill or wound any enemy who, having laid down his arms, or having no longer means of defense, has surrendered at discretion."

The above citations represent the closest approach to the instant case to be found in the Hague, or Geneva, Conventions. The American view is expressed in J.A.G.S. Text No. 7, quoting from Spaight on air power, which provides as follows: "An enemy whose aircraft has landed on territory held by the opponent may not be attacked if he does not continue to resist or try to escape for he will be captured in any event. He may be attacked if he continues to resist. It is not for hidden to fire on any enemy whose machine has crashed on enemy ground. Enemy personnel descending in parachutes from aircraft which is disabled or out of control may not on general principle be shot if the descent is over ground held by forces hostile to the parachutist."

It will be noted, however, that it is difficult to catalog the facts in this case under any of the provisions quoted. Bender, at the time he was shot, was hiding in a hedge row, in order to effect an escape. It certainly must have been apparent to the accused that he, Bender, could not escape, but did the accused know that Bender was not armed? The evidence on this point is lacking. Bender was concealed in a hedge row. The accused saw him and may have felt that a demand for surrender would be answered by a shot. Certainly, if accused knew that Bender was not armed, then the shooting was a wanton, useless killing.

Even under the latter theory, accused did not violate any written international law relating to war crimes. However, under the law of all civilized nations, the international killing of a human being in cold blood, when not attacked or in danger of attack, is murder. "The law of nations is in truth common law; or, rather, the common law has appropriated the law of nations, making it a part of itself." (Bishop op. cit. page 356). In "War Criminals" by Sheldon Glueck, page 110, the statement is made that "The Law of nations is but private law ' writ large'. It means that where a legal principle is so generally accepted by various nations as to be a common denominator of practically all civilized systems, it is justifiably applicable also by an international tribunal." The same author, on page 237, gives the German viewpoint: "Whoever commits an act which the law declares to be punishable or which deserves punishment according to the principles of the criminal law and to the sound sentiments of the people, will be punished."

(Continued on RIDER)
Accordingly, if the crime committed was a violation of the
common law, or the penal statutes of the civilized nations, then it
automatically becomes a part of the law of war and the accused could
be tried before a Military Commission and punished for his crime.
However, this is a border-line case. There is no known precedent
to follow. According to the facts in the file, a United States aviator
has been uselessly killed. The evidence adduced at the trial may show
a cold-blooded murder.

(c) The case appears to be reasonably complete with the excep-
tion that the report of reburial is not verified by the signature of
the officer making the report and the Missing Air Crew report is not
certified to be a true copy.
<table>
<thead>
<tr>
<th>Date Submitted</th>
<th>Decision of Committee I</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 MAY 1947</td>
<td>A</td>
</tr>
</tbody>
</table>

CARDS CHECKED LIST 58
UNITED NATIONS WAR CRIMES COMMISSION

UNITED STATES CHARGES AGAINST ITALIAN WAR CRIMINALS

CASE NO. 420 *

Name of accused, his rank and unit, or official position. (Not to be translated.)

TURCHI, Ido, member of 38th Fire Brigade, Grosseto, Italy

Date and place of commission of alleged crime.

26 April, 1943, Grosseto, Italy

Number and description of crime in war crimes list.

Murder

References to relevant provisions of national law.

Violation of the Laws and Customs of War.

SHORT STATEMENT OF FACTS.

A United States aircraft of 97th Bomber Group, 34th Bomber Squadron, on a combat mission to Grosseto, Italy, 26 April, 1943, was struck by German flak and disintegrated in the air. At the time the plane was hit it was over its target, an airfield located just north of Grosseto, Italy.

There were ten crew members, six of whom were killed instantly, but four parachuted safely to the ground. One of the four crew members, Second Lieutenant Robert H. Calkins, landed in a corn field adjoining the airport in the midst of a large group of Italians who had taken refuge there.

These civilians, enraged by the bombardment, immediately attacked Calkins. He was rescued from the mob by Giuseppe Toncelli, a fire guard of the 38th Fire Brigade. As Calkins was being led away by Toncelli, Ido Turchhi, also a member of the 38th Fire Brigade ran up and struck Calkins over the head with his rifle, knocking Calkins to the ground. Ido Turchhi started to leave the scene and Toncelli lifted Calkins to his feet. At this time Ido Turchhi returned and bayoneted Calkins.

Calkins died about one month later because of the injuries he had received.

TRANSMITTED BY U.S. Commanding General, Mediterranean Theater of Operations (Case Number 396)

* Insert serial number under which the case is registered in the files of the National Office of the accusing State.
The Consolidated Battle and Casualty Report of the Northwest African Airforces shows that on the 26 April, 1943 a B-17 of the 97th Bomber Group on a mission to Grosseto, Italy was lost together with ten crew members. A C. Casualty Information discloses that six crew members were killed in the explosion of the plane and that the remaining four parachuted safely to earth.

Two of the four were prisoners of war, one returned to duty, and the remaining one, Second Lieutenant Robert H. Calkins is shown as dead.

The evidence shows that the air raid occurred on the afternoon of 26 April, an Italian holiday. Many civilians had left their homes and were in the vicinity of the airfield at the time of the raid. When the raid started these civilians and others living nearby took shelter in the corn field near the airfield. There had been many casualties among the civilians. Lieutenant Calkins was unfortunate in landing by parachute in the same field in which the civilians had taken shelter. As soon as he landed he was attacked by the civilians, one of whom had a small son killed and another one had a small son severely injured.

The 38th Fire Brigade of Grosseto, a local organization formed apparently for protection during air raids and for the purpose of apprehending parachutists, sent men by truck to the vicinity of the airfield.

Giuseppe Tonoelli, a fire guard, seeing the mob beating the airman, rushed in and rescued the United States airman. As he was leading the airman towards the road Ido Turohi, another member of the fire guard, armed with a No. 91 Italian rifle with fixed bayonet, rushed up and struck the airman over the head and shoulders with the butt of his rifle knocking the airman to the ground.

Tonoelli helped the airman to his feet as Turohi turned to leave. Tonoelli and the airman had made only a few steps when Turohi turned and bayoneted the airman. Tonoelli and the airman walked about twenty paces when the airman fell. Tonoelli thinking that the airman was dead folded the airman's hands and left him under guard. Later others discovered that the airman was still alive and he was taken to a hospital in Grosseto.

Two days later the airman was removed by the Italian authorities from the hospital at Grosseto to a hospital at Lucca. His condition grew worse and following an operation, he died on 24 May, 1943.

After his death the airman was buried at Lucca and later was transferred to the British Military cemetery at Florence. Finally on 27 April, 1946 he was reburied in the United States Military cemetery at Castelfiorentino.
The loss of ten crew members of a B-17 at Grosseto, Italy, 26 April, 1943, is shown by the Consolidated Casualty Report, Northwest African Air-Forces dated 6 May, 1943 together with A. G. Casualty Report.

Seven eye-witnesses will testify that an Allied plane was knocked down on the afternoon 26 April at Grosseto and that they saw four parachutists coming down, one of whom landed among a group of civilians in a corn field.

Giuseppe Toncelli states that he had taken the Allied airman from the mob and had him in protective custody when he was hit and bayoneted by Ido Turohi. This witness describes in detail the accused's actions and the tear in the airman's jacket where he was struck with the bayonet. He did not know the airman's name, but gave a detailed description of his appearance.

The accused admits striking the airman; that he had a triangular shaped bayonet on his rifle; that the bayonet "skimmed down from left-shoulder to belt; but that the airman continued to walk a few paces without showing too much pain.

Ado Scaramucci saw the airman lying face down by the road. He noticed that the airman had a wound on the back of his head and blood running out of his mouth. He likewise describes the physical appearance of the flyer.

Sesto Nardi, also a member of the fire brigade, assisted the airman in moving from the spot where Toncelli had left him. He likewise describes the physical appearance of the flyer and his wounds and stated in addition that it was the same airman wounded by the accused, Turohi.

Eugenio Tagliai, an attendant at the Red Cross hospital at Grosseto saw the four United States airmen who were brought to the hospital 26 April, 1943. This witness describes one airman as being severely wounded in the back by what appeared to be a dagger or pointed weapon.

Mario Pellegrini, a doctor at the hospital at Grosseto, describes four wounded United States airmen who were delivered to the hospital on the afternoon of 26 April, 1943. Three of the airmen were not in a serious physical condition. The fourth airman suffered from haemothorax on the left side, caused by a pointed triangular weapon. The wound was breast high and penetrating in cavity. Dr. Raffaele Andruccette, the doctor in charge at the Grosseto hospital, confirms the statement of Dr. Pellegrini.

Professor Italo Franceschi, director of the military hospital in Lucca, states that four United States prisoners were received on April 26 and 29 from the hospital at Grosseto. One of the prisoners was in a severe physical condition as a result of a wound inflicted by a pointed weapon on the left side of his thorax. A few days later infection began, an operation was performed, but the prisoner died.

The interrogation of Lieutenant Robert B. Charlton, pilot, and the escape statement of Lieutenant Richard G. Buskin, co-pilot, two of the four men who parachuted to earth at Grosseto, Italy, 26 April, 1943, confirm the fact that Lieutenant Robert H. Calkins died at Lucca, Italy, on or about 24 May, 1943. They both state, however, that his death was caused by the beating he received at the hands of the mob at Grosseto, Italy, and because of inadequate medical attention.
(a) The offense was committed on the accused's own initiative. Grosseto had been bombed repeatedly, and on the 26 April, 1943 many Italian civilians had been injured or killed in the bombardment. On that account there was intense resentment against the Americans among the residents of Grosseto. The accused shared this feeling, and this was a probable cause of his action.

(b) The defense will undoubtedly contend that the deceased died of wounds sustained at the hands of the mob at Grosseto rather than from any injuries inflicted by the accused. The Italian doctors who examined and treated the deceased are hostile witnesses and refused to make any statements for more than a year. In view of the statements made by Lieutenant Charlton and Lieutenant Buskin, it is imperative that the Italian doctors testify in accordance with the statements that they have made.

The defense also will undoubtedly take advantage of the fact that the identity of the deceased is not clearly established by competent evidence.

(c) The 38th Fire Brigade at Grosseto was not recognized as a combatant organization of the Italian Army in April, 1943. Information covering the following points should be secured: (1) Did the members of the 38th Fire Brigade have a distinctive emblem? (2) Was it commanded by a responsible person? (3) Were its members authorized to carry arms openly? (4) Did it observe the laws and customs of war?

It would be very beneficial to have either Lieutenant Charlton or Lieutenant Buskin testify in person. The deceased could probably be further identified by Italian witnesses by means of a duly recognized photograph of Lieutenant Calkins.
<table>
<thead>
<tr>
<th>Date Submitted</th>
<th>Decision of Committee I</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>26 JUN 1947</td>
<td>A</td>
<td></td>
</tr>
</tbody>
</table>

CARDS CHECKED LIST 61
UNITED NATIONS WAR CRIMES COMMISSION

UNITED STATES

CHARGES AGAINST ITALIAN WAR CRIMINALS

CASE No. 444.

Name of accused, his rank and unit, or official position.

1. ROMAGLIA, Tito, Brigadier M.V.S.N. (later he was a Lieutenant of the Black Brigade).

Date and place of commission of alleged crime.

24 January 1944, at Polizo, Terni, Italy.

Number and description of crime in war crimes list.

Murder.

References to relevant provisions of national law.

SHORT STATEMENT OF FACTS.

An American aircraft, a B-26 of the 15th Air Corps, 319 Group, while on combat mission to Foligmo, Italy, was disabled on the 19th December 1943. The plane crashed about 12 miles from Lake Bolsena. Four members of the crew bailed out. S/Sgt. Dale E. KING landed at Lake Bolsena, obtained civilian clothing during the next ten days travelled to Polizo, Italy. KING was in an exhausted condition because of lack of food, but the inhabitants of Polizo furnished him food and shelter until the 24th day of January 1944. On the 23rd of January 1944 a group of partisans entered the village of Polizo, arrested two citizens and executed them on the public square. The following morning about eighty Fascists from Terni and neighboring cities surrounded Polizo, ordered all men above the age of 15 to the public square and searched the houses and the town. At that time the deceased was in the home of Domenico Matteucci. Matteucci led a patrol consisting of Tito Romaglia, Edoardo Lancia, and two or three other members of the Fascist Party to his home. KING was sitting in front of the fire when Romaglia and Lancia entered the house. The two of them fired several shots without warning. KING dropped to the floor and died within a few minutes.

TRANSMITTED BY Source: Commanding General, Mediterranean Theater of Operations (Case No. 310)

* Insert serial number under which the case is registered in the files of the National Office of the accusing State.
Evidence shows S/Sgt. Dale KING had bailed out from a disabled plane and landed in territory held by the enemy. Thirty six days after he landed, while sitting before the fire in the home of Domenico Matteucci, he was killed by the accused. There is no evidence that he was armed or attacked the accused, except the accused’s own statement. Edoardo Lancia has not been apprehended.

It can be safely said that S/Sgt. Dale KING was unarmed, offered no defense, was not attempting to run away when shot, but neither was he a prisoner of war. Article 23-b of the Annex to the Hague Convention No.4, 18 October 1907, provides as follows: it is forbidden “to kill or wound treacherously individuals belonging to the hostile nation or army”.

Paragraph of the same Article provides: it is unlawful “to kill or wound an enemy who, having laid down his arms or having no longer means of defense, has surrendered at discretion”.

The above citations represent the closest approach to the instant case to be found in the Hague or Geneva Conventions. However, under the law of all civilized nations, the intentional killing of a human being in cold blood when not attacked, or in danger of attack, is murder. "The law of nations is in truth common law; or, rather, the common law has appropriated the law of nations, making it a part of itself", (Bishop op. cit. page 356). In "War Criminals", Sheldon Glueck, page 110, the statement is made that "the law of nations is but private law ‘right large’, it means, that where a legal principle is so generally accepted by various nations as to be common denominator of practically all civilized systems, it is testifiably applicable also by an international tribunal".
NOTES ON THE CASE

(Under this heading should be included the view taken as to (a) the degree of responsibility of the accused in view of his official position, e.g., was offence committed on the offender’s own initiative, or in obedience to orders, or in carrying out a system approved by authority or a legal provision; (b) the probable defence; (c) whether the case appears to be reasonably complete.)

(a) There is a slight conflict in evidence, but it appears that the offense was committed on the accused’s own initiative.

(b) (1) No war crimes committed.
    (2) That the accused did not kill KING, or he did it in self-defense.
    (3) Identity of deceased not established.

(c) The case appears to be reasonably complete.