

- Q.5 Did you see Mr. McQuarrie standing behind the tank?
 A.5 Yes sir.
 Q.6 Did you hear him call Tpr Lyons at any time?
 A.6 No sir.
 Q.7 You were working behind your tank and saw the meal parade form up and went towards the meal parade and Mr. McQuarrie and Lyons were talking together then?
 A.7 Yes sir.
 Q.8 You went right past them?
 A.8 Yes sir.
 Q.9 You went into the meal parade?
 A.9 Yes sir.
 Q.10 Were there other members of your tp there?
 A.10 They came in behind me.
 Q.11 Your tp was in the meal parade before Tpr Lyons and Lieut McQuarrie finished talking?
 A.11 A large percentage of them were sir.
 Q.12 That particular day did the parade run by tps or was it the whole Bqn first come first served?
 A.12 It was first there.
 Q.13 Everyone was pretty tired and hungry?
 A.13 Yes sir.

questioned by the court

- Q.14 You had received no orders whatsoever that day regarding the meal parade?
 A.14 No sir.
 Q.15 Did anyone explain to you or give orders regarding meal parade on that day or days previous to that?
 A.15 Not that day, no sir.
 Q.16 What about the day before?
 A.16 I am not sure if we were eating by tps the day before or not.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Submission of no prima facie case by the Defence

I wish to submit that the case has not been proven and there is so much doubt involved, the facts are just not there. Mr. McQuarrie states he called the accused, yet a man ten yds away did not hear it. If this man did not hear it why would Tpr Lyons who was further away. Then he went up to Lyons and a conversation took place and he claims to have ordered him back. In the meantime the tp had taken their place in the meal parade and that is where the accused went, he did not fail to carry out an order. I submit that the evidence is not there and that a prima facie case has not been established.

Reply by the the Prosecution

Mr. President and members, there is a case established of disobeying a command which was given. The question of whether Mr. McQuarrie shouted does not matter, the fact is he came up to the accused and ordered him back to where the remainder of the tp were. The Defence has suggested that the rules were more or less called off on this particular day and everybody did as they wanted. There were certain regulations established that the men would not be in long line ups. This control was laid on for the express purpose of preventing what was happening this day. This officer gave an order to the man to return. It is probable that the men were tired but that is no excuse. The case in my opinion is established in that the officer gave an order to the accused to return to the place where he knew he should have been, and there was a definite time interval in which the accused could have conformed and obeyed that order. I consider that there was a direct disobedience to that lawful command.

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