

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

REVIEW SHEET

PRE-POST CONFIRMATION

FGCM .. 16 May 45 (Date of sentence)

(XXXXXXXXXX)
(XXXXXX)
(UK)

No. B88714 Rank Cpr.

Name .. Campbell F.

Unit .. 22 Cdn Spec. Bde Coy.

Charge(s) 41 40 40 40

Plea NG NG G G

Finding G NG G G

Sentence .. 2 Year imprisonment

..... and discharge with ignominy

RECOMMENDATION OF
INITIAL REVIEWING OFFICER

XXXXXXXXXXXXXXXXXXXX

Quash XXXXXXXXXXXX Charge

Date 28 May "E C Marus" Capt
(Reviewing Officer)

Received from CR .. 28 May 45

Passed to Rev Offr 28 May 45

Passed to Rev 1 .. 28 May 45

Passed to ..

Passed to ..

Returned to Rev Clerk ..

File
Record & Pass AG5 "L. J. Brady" Capt
30 May 45

FINAL JAG OPINION

Pass XXXXXXXX

XXXXXXXXXXXXXXXXXXXX

Date 30 May 45 "D D Carrick" Lt Col
AJAG

OBSERVATIONS:

In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea.

In the case of pleas of not guilty:- There is legal evidence to justify the finding.

No substantial injustice to the accused.

1. Accused pleaded not guilty to a charge of theft of YMCA stores. The evidence was to the effect that accused had been working in the YMCA Mar 31 and Apr 1. Between those dates the goods were found to be missing. The goods were found in a barrack box which was in the possession of the accused. Although possession of the barrack box was denied, the weight of evidence indicates that it was, in fact, in possession of the accused.

2. In order to find the accused guilty of theft of the goods, it is necessary that it should be established that he had some opportunity to take them away. While normally this might be presumed from the recent possession, in this case it is negated by the evidence of Cpl Robinson, the third witness for the pros who says that the accused was under his surveillance at all material times. This, coupled with the denial of the accused is sufficient to rebut the presumption raised by the recent possession, and it is considered that the taking away has not been proven.

RECORDED AT CMHQ IN AB 160 51-130

(PTO)

(Continue over if necessary)