

Summary of evidence in the case of No F-40280  
Private SMITH, E.J. Unit H.Q. 9th Cdn Inf Bde

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st witness for the prosecution

Lieut. V.K. Marshaw, 9th Cdn Inf Bde Def Pl  
(having been duly sworn) states:-

At In the Field (Place) On 2 Jan 42 (date) on which offence occurred (here follows the evidence of the witness)

I am Lieut. V.K. Marshaw, O.C. 9th Cdn Inf Bde Def Pl acting Camp Commandant, H.Q. 9th Cdn Inf Bde.

On the 2 Jan 42, Father D.A. Kerr reported to me that his batman, Pte. Smith, E.J., had not returned from being on pass. Said pass expired at 2359 hrs, 1 Jan 42, which pass I here produce as exhibit "B".

I myself made a search and Pte. Smith E.J. was not in his quarters. I have not seen Pte. Smith, E.J. at any of the places of parade where he should have been since then. I produce now the evidence as given by Sgt Sharpe, West Sussex Constabulary, to show that Pte. Smith, E.J. surrendered to the civil police at MIDHURST at 1625 hrs 11 Mar 42, as received by me as Camp Commandant, H.Q. 9th Cdn Inf Bde, shown as exhibit "C"

I have also ascertained that Pte. Smith E.J. has not attended a pay parade since Dec 22, 41 and produce a signed and sworn statement to that effect as exhibit "D".

The accused declines to cross-examine this witness.

*W.K. Marshaw, Lieut*  
(Signature of witness)

2nd witness for the prosecution

No F50060 Spl. I. Bell Unit H.Q. 9th Cdn Inf Bde  
(having been duly sworn) states:-

I, F-50060 Spl. I. Bell, Orderly Room Clerk, was present on the morning of the 23 Mar 42 at 1055 hrs to take down evidence in the office of the Staff Captain 9 Cdn Inf Bde, when I heard him caution F-40280 Pte. E.J. Smith with the words "you may make a statement if you so wish but if you make a statement it may be used as evidence against you".

I took down the statement in shorthand as given by Pte. E.J. Smith and from my notes I copied it out. Capt. Parker then pointed out to Pte. E.J. Smith that he did not have to sign it as any statement made would be entirely voluntarily on his part. Pte. Smith then signed the statement, writing in his own hand writing, "I am signing this voluntarily". I witnessed the signature and I produce his statement now, Exhibit "A".

The accused declines to cross-examine this witness.

*I. Bell*  
(Signature of witness)

Certified that Rule of Procedure 4(c) (d) (e) and (g) have been complied with  
Taken down by me in the presence and hearing of the accused this 2nd day of MARCH 19 42 at In the Field

*[Signature]*  
(Signature of Officer taking Summary)